The Revival of Tradition in Indonesian Politics

The deployment of adat from colonialism to indigenism

Edited by

Jamie S. Davidson and David Henley

Routledge Contemporary Southeast Asia Series



NUS

National University
of Singapore

The Revival of Tradition in Indonesian Politics

The Indonesian term adat means 'custom' or 'tradition', and carries connotations of sedate order and harmony. Yet in recent years it has suddenly become associated with activism, protest and violence. Since the resignation of President Suharto in 1998, diverse indigenous communities and ethnic groups across Indonesia have publicly, vocally, and sometimes violently, demanded the right to implement elements of adat in their home territories. This book investigates the revival of adat in Indonesian politics, identifying its origins, the historical factors that have conditioned it and the reasons for its recent blossoming. The book considers whether the adat revival is a constructive contribution to Indonesia's new political pluralism or a divisive, dangerous and reactionary force, and examines the implications for the development of democracy, human rights, civility and political stability. It is argued that the current interest in adat is not simply a national offshoot of international discourses on indigenous rights, but also reflects a specifically Indonesian ideological tradition in which land, community and custom provide the normative reference points for political struggles. Whilst campaigns in the name of adat may succeed in redressing injustices with regard to land tenure and helping to preserve local order in troubled times, attempts to create enduring forms of political order based on adat are fraught with dangers. These dangers include the exacerbation of ethnic conflict, the legitimation of social inequality, the denial of individual rights and the diversion of attention away from issues of citizenship, democracy and the rule of law at national level. Overall, this book is a full appraisal of the growing significance of adat in Indonesian politics, and is an important resource for anyone seeking to understand the contemporary Indonesian political landscape.

Jamie S. Davidson is Assistant Professor at the National University of Singapore. He has written on ethnic violence and politics in Indonesia, and now works on the politics of legal reform in the same country.

David Henley is a researcher at the Royal Netherlands Institute of Southeast Asian and Caribbean Studies (KITLV) in Leiden. He has written on diverse aspects of the history and historical geography of Indonesia, and now works on the comparative economic histories of Southeast Asia and Sub-Saharan Africa.

Routledge Contemporary Southeast Asia Series

Land Tenure, Conservation and Development in Southeast Asia
Peter Eaton

The Politics of Indonesia–Malaysia Relations
One kin, two nations
Joseph Chinyong Liow

Governance and Civil Society in Myanmar
Education, health and environment
Helen James

Regionalism in Post-Suharto Indonesia
Edited by Maribeth Erb, Priyambudi Sulistiyanto and Carole Faucher

Living with Transition in Laos
Market integration in Southeast Asia
Jonathan Rigg

Christianity, Islam and Nationalism in Indonesia
Charles E. Farhadian

Violent Conflicts in Indonesia
Analysis, representation, resolution
Edited by Charles A. Coppel

Revolution, Reform and Regionalism in Southeast Asia
Cambodia, Laos and Vietnam
Ronald Bruce St John

The Politics of Tyranny in Singapore and Burma
Aristotle and the rhetoric of benevolent despotism
Stephen McCarthy

Ageing in Singapore
Service needs and the state
Peggy Teo, Kalyani Mehta, Leng Leng Thang and Angelique Chan

Security and Sustainable Development in Myanmar
Helen James

Expressions of Cambodia
The politics of tradition, identity and change
Edited by Leakthina Chau-Pech Ollier and Tim Winter

Financial Fragility and Instability in Indonesia
Yasuyuki Matsumoto

The Revival of Tradition in Indonesian Politics
The deployment of adat from colonialism to indigenism
Edited by Jamie S. Davidson and David Henley

The Revival of Tradition in Indonesian Politics

The deployment of adat from colonialism to indigenism

Edited by
Jamie S. Davidson and
David Henley

Routledge
Taylor & Francis Group
LONDON AND NEW YORK

First published 2007 by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
270 Madison Ave, New York, NY 10016

Routledge is an imprint of the Taylor & Francis Group, an informa business

This edition published in the Taylor & Francis e-Library, 2007.

"To purchase your own copy of this or any of Taylor & Francis or Routledge's collection of thousands of eBooks please go to www.eBookstore.tandf.co.uk."

© 2007 Editorial selection and matter, Jamie S. Davidson and David Henley;
Individual chapters, the contributors

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

Library of Congress Cataloging in Publication Data
The revival of tradition in Indonesian politics : the deployment of adat from colonialism to indigenism / edited by Jamie S. Davidson and David Henley.
p. cm. — (Routledge contemporary Southeast Asia series ; 14)
Includes bibliographical references and index.
ISBN 0-415-41597-7 (hardback : alk. paper) 1. Political culture—Indonesia. 2. Adat law—Indonesia. 3. Indonesia—Politics and government—1998– I. Davidson, Jamie Seth, 1971– II. Henley, David, 1963–

JQ776.R48 2007
306.209598—dc22
2006023115

ISBN 0-203-96549-3 Master e-book ISBN

ISBN10: 0-415-41597-7 (hbk)
ISBN10: 0-203-96549-3 (ebk)

ISBN13: 978-0-415-41597-2 (hbk)
ISBN13: 978-0-203-96549-8 (ebk)

To Portia and to Agustina

Contents

List of illustrations ix
List of contributors xi
Preface and acknowledgements xiii
Abbreviations and glossary xvi

1 Introduction: radical conservatism – the protean politics of adat 1
DAVID HENLEY AND JAMIE S. DAVIDSON

2 Colonial dilemma: Van Vollenhoven and the struggle between adat law and Western law in Indonesia 50
C. FASSEUR

3 Custom, that is before all law 68
PETER BURNS

4 Custom and koperasi: the co-operative ideal in Indonesia 87
DAVID HENLEY

5 The romance of adat in the Indonesian political imagination and the current revival 113
DAVID BOURCHIER

6 Land, custom, and the state in post-Suharto Indonesia: a foreign lawyer's perspective 130
DANIEL FITZPATRICK

7 Return of the sultans: the communitarian turn in local politics 149
GERRY VAN KLINKEN

8 Adat in Balinese discourse and practice: locating citizenship and the commonweal 170
CAROL WARREN

9 The many roles of adat in West Sumatra 203
RENSKE BIEZEVELD

10 Culture and rights in ethnic violence 224
JAMIE S. DAVIDSON

11 Adat revivalism in western Flores: culture, religion, and land 247
MARIBETH ERB

12 From bumiputera to masyarakat adat: a long and confusing journey 275
SANDRA MONIAGA

13 From customary law to indigenous sovereignty: reconceptualizing masyarakat adat in contemporary Indonesia 295
GREG ACCIAIOLI

14 The masyarakat adat movement in Indonesia: a critical insider's view 319
ARIANTO SANGAJI

15 Adat in Central Sulawesi: contemporary deployments 337
TANIA M. LI

Index 371

Illustrations

Figures

4.1 Title pages of a 1931 handbook by J.H. Boeke, in Malay (left) and Javanese (right), on the establishment and management of credit co-operatives 88
8.1 Lembaga Perkreditan Desa (Village Credit Society), Peliatan 180
8.2 Home destroyed in an adat conflict 188
10.1 Page of IDRD's rebuttal in the *Kalimantan Review*, 2 (1999) 227
11.1 Playing caci for tourists, Ruteng, Flores, 2004 253
11.2 Cultural studio head receiving tourists in an adat ceremony, 2002 (photograph by Anita Verhoeven) 254
11.3 Talking through a chicken during Penti, Tukeq hamlet, 2000 262
13.1 Opening parade at the Second Congress of Archipelagic Indigenous Peoples (KMAN II), Tanjung, Lombok, 19–25 September 2003 296
13.2 Concluding demonstration at the AMASUTA provincial congress (Palu, 17–19 June 2003) in lead-up to KMAN II 297
13.3 West Kalimantan delegate (Nazarius, a founding member of the masyarakat adat movement) addresses the audience during KMAN II 306
14.1 Masyarakat adat groups protest in Palu, Central Sulawesi 320

Maps

1.1 Indonesia xx
11.1 Flores, with the original Manggarai district shaded 250

Tables

7.1 Recently revived principalities in Indonesia 152

13.1 Communities of indigenous people (*komunitas masyarakat adat*) that have applied for recognition and have been verified, and their distribution across districts 302
14.1 Allocation of natural resources in Central Sulawesi, 2004 326

Contributors

Greg Acciaioli lectures in Anthropology and Sociology at the University of Western Australia. His research interests include development and underdevelopment, environmental anthropology, ethnicity and migration, and the history of anthropological thought. He has conducted extensive fieldwork in Sulawesi and Kalimantan.

Renske Biezeveld is an Anthropologist and Sociologist. She obtained her Ph.D. from the Erasmus University (Rotterdam) with a dissertation published as *Between Individualism and Mutual Help: social security and natural resources in a Minangkabau village* (Delft: Eburon, 2002). She currently works as a policy adviser for the Dutch Association of Industry-wide Pension Funds (Vereniging van Bedrijfstakpensioenfondsen).

David Bourchier lectures in Asian Studies and Indonesian at the University of Western Australia. He has written widely on politics, law, human rights and the military in Indonesia. His latest book (with Vedi Hadiz) is *Indonesian Politics and Society: a reader* (London: RoutledgeCurzon, 2003).

Peter Burns is a retired Australian academic who has studied the history of law in Indonesia. His major work on the subject, *The Leiden Legacy: concepts of law in Indonesia*, was published in Leiden by the KITLV Press in 2004. He formerly taught Indonesian in the Department of Modern Languages at James Cook University, Queensland.

Jamie S. Davidson has been a member of the INDIRA research team of the Van Vollenhoven Institute for Law, Governance, and Development of Leiden University since 2004, and is currently Assistant Professor of Political Science at the National University of Singapore. He specializes in comparative politics, ethnic violence, democratization, legal reform, and Southeast Asia.

Maribeth Erb is an Associate Professor of Sociology at the National University of Singapore. She is author of *The Manggaraians* (Singapore: Times Editions, 1999) and co-editor, with Priyambudi Sulistiyanto and

Carole Faucher, of *Regionalism in Post-Suharto Indonesia* (London: RoutledgeCurzon, 2005). She has published articles on tourism and Manggaraian ritual and history in journals and edited collections.

C. Fasseur is a legal expert and a well-known historian both of colonial Indonesia and of the Dutch monarchy. Emeritus Professor of History at Leiden University, he is currently also a senior adviser to the Amsterdam District Court.

Daniel Fitzpatrick is Reader/Associate Professor in Law at the Australian National University, and part-time research fellow at the Van Vollenhoven Institute for Law, Governance and Development, Leiden University. He has written widely on land law and development in the Third World.

David Henley is a researcher at the Royal Netherlands Institute of Southeast Asian and Caribbean Studies (KITLV) in Leiden. He has written on diverse aspects of the history and historical geography of Indonesia, and now works on the comparative economic histories of Southeast Asia and Sub-Saharan Africa.

Gerry van Klinken is a researcher at the Royal Netherlands Institute of Southeast Asian and Caribbean Studies (KITLV). He lived in Indonesia for more than ten years. His recent work has been on communal conflict, human rights, historiography, and local politics.

Tania M. Li is Professor in the Department of Anthropology at the University of Toronto. She holds a senior Canada Research Chair in the Political-Economy and Culture of Asia-Pacific. Her research focuses on questions of culture, economy, environment and development in Indonesia's upland regions.

Sandra Moniaga is a Ph.D. candidate at the Van Vollenhoven Institute for Law, Governance and Development of Leiden University, under the auspices of the institute's INDIRA project on land law in Indonesia. Actively engaged with environmental and human rights movements in Indonesia since 1986, she is a leading proponent of the cause of Indonesia's indigenous peoples.

Arianto Sangaji is a long-time indigenous peoples' activist and founding member of the indigenous rights organization Yayasan Tanah Merdeka, located in Palu, Central Sulawesi. He has written extensively on related issues in Indonesian publications.

Carol Warren is Associate Professor and Research Fellow in the Asia Research Centre at Murdoch University, Western Australia. She has carried out field research on local governance and customary law in Indonesia and Malaysia and is author of *Adat and Dinas: Balinese communities in the Indonesian state* (Kuala Lumpur: Oxford University Press, 1993).

Preface and acknowledgements

This book originated in a convergence, and a complementarity, between the research interests of its editors. David Henley, through his historical work on nationalism in Indonesia, was fascinated by the influence of Dutch colonial ideas about Indonesian tradition on New Order political ideology. Jamie Davidson's research on ethnic conflicts in Kalimantan had confronted him with the power of a different, but evidently related, 'politics of tradition' at regional level in the post-New Order period. The catalyst bringing the project together, as for so many intellectual endeavours in relation to Indonesia, was Tony Reid, director of the Asia Research Institute (ARI) of the National University of Singapore. Comments by Jamie during an ARI seminar in 2003 reminded Reid of a poolside conversation with David at a Jakarta hotel some years earlier, in which similar issues had been discussed. Reid put the two in touch, asking Jamie to organize an ARI workshop on the politics of *adat* – tradition – and the promises and pitfalls of today's adat revival movements. Together with anthropologist Greg Acciaioli, who was studying the indigenous peoples' movement in Indonesia, Jamie and David penned a thematic outline for the event. Among those invited to participate were adat activists from Indonesia, and interested scholars of diverse disciplines from Singapore, Australia, the Netherlands, and Canada.

The workshop, entitled 'Adat revivalism in Indonesia's democratic transition', took place on 26 and 27 March 2004 on the island of Batam, Singapore's Indonesian 'backyard'. It would not have been possible without the funding generously provided by ARI under Tony Reid's stewardship, or without the professionalism of ARI administrative staff members Valerie Yeo Ee Lin, Noorhayati Binti Hamsan, Lynn Tan, and Shalini Chauhan. The present volume grew out of the Batam workshop. Except for the editors' introduction (Chapter 1) and the contribution by Cees Fasseur (Chapter 2), all chapters are based – albeit in some cases at considerable remove – on papers presented in Batam. Also influential in most cases, especially the introduction, were the lively and sometimes heated debates conducted at the workshop, debates sharpened by a group of first-rate discussants including Oetema Dewi, Carole Faucher, Jamil Gunawan,

Paul Hutchcroft, Joel Kahn, Priyambudi Sulistiyanto, Bivitri Susanti, and Tony Reid himself. Papers by Hedar Laudjeng and Erma Ranik, two committed activists at the forefront of adat movements in their respective homelands of Central Sulawesi and West Kalimantan, could not be included in the present volume, but both participants made important contributions to the event.

We would like to express our heartfelt thanks to all those involved in the Batam workshop. In particular we want to thank the contributing authors for meeting our sometimes onerous editorial demands, and for bearing with us when the preparation of the volume for publication took longer than anticipated. The essays went through multiple revisions before reaching the forms published here. Our thanks also go to the University of Leiden's Van Vollenhoven Institute for Law, Governance and Development, which proved an ideal intellectual environment for Jamie in which to co-write the introductory chapter, and which gave us the opportunity to make a public presentation of that introduction. Jan Michiel Otto, Adriaan Bedner, Henk Schulte Nordholt, Gerry Van Klinken, and Peter Burns all gave graciously of their time to offer valuable comments and suggestions on the same piece. Thanks too to Peter Sowden, Barry Clarke and Leong Li Ming of Routledge for their efforts and support in seeing the whole volume through to its publication.

Most importantly we thank our families, who have given us their love and patience as we juggled our professional and personal lives to bring this project to fruition. Portia Reyes watched Jamie turn himself into an 'adat scholar' over piles of photocopies and cups of tea in a Singaporean café. As the project unfolded, she lent a loving, helping and firm hand during its ups and downs. Jamie remains eternally grateful, all the while perplexed at his good fortune in her stumbling into his life. For Agustina Kusbandini Henley the period in which this book took shape was a momentous one, including the arrival of beloved twins Daniel and Ann, wrenching moves from Leiden to Singapore and back, and David's not always successful attempts at balancing his own increasingly diverse priorities. When he succeeded at all it was, as always, thanks to her.

With this book we have endeavoured to show how its principal themes – marginalization and empowerment of indigenous peoples, (un)civil society, democratization, land rights, identity politics, and legacies of colonialism – relate to global developments beyond Indonesia's borders. All these topics are of radical importance in today's world and will strike emotive chords with many readers – as indeed they did with our contributors, who strive for balance but whose biases and commitments are often evident none the less. Whatever their personal reactions to the various arguments presented, we hope that readers, including those involved in adat movements themselves, will come away from the book with fresh insights into the politics of tradition in Indonesia as a historical as well as a contemporary phenomenon.

A final word of thanks is due to Berg Publishers for allowing us to republish here, as Chapter 2, C. Fasseur's 'Colonial dilemma: Van Vollenhoven and the struggle between adat law and Western law in Indonesia'. This originally appeared in W.J. Mommsen and J.A. de Moor (eds) *European Expansion and Law: the encounter of European and indigenous law in 19th- and 20th-century Africa and Asia* (Oxford: Berg, 1992).

Abbreviations and glossary

adat	custom, tradition
adatrecht	customary law
adatrechtskring	'customary law area'
ADB	Asian Development Bank
AMAN	Aliansi Masyarakat Adat Nusantara (Alliance of Indigenous Peoples of the Archipelago)
AMASUTA	Aliansi Masyarakat Adat Sulawesi Tengah (Alliance of Indigenous Peoples of Central Sulawesi)
arisan	rotating savings and credit association
awig-awig	customary charter/regulations (Bali)
BAL	Basic Agrarian Law (1960)
banjar	hamlet/ward within village (Bali)
beschikkingsrecht	community 'right of avail' over territory
Blut und Boden	blood and soil
BPD	Badan Perwakilan Desa (village representative board)
BPN	Badan Pertanahan Nasional (National Land Agency)
bumiputera	'son of the soil' (indigenous person)
bupati	district head
CIFOR	Centre for International Forestry Research
CNWS	Centre for Non-Western Studies (Leiden University)
CSIS	Centre for Strategic and International Studies (Jakarta)
CSO	civil society organization
desa	village
desa pakraman	traditional (adat) village (Bali)
dinas	official (concerned with state administration)
DPR	Dewan Perwakilan Rakyat (national parliament)

DPRD	Dewan Perwakilan Rakyat Daerah (regional parliament)
eigendom	property, ownership
FKKKI	Forum Komunikasi Keraton-Keraton di Indonesia (Communication Forum for the Royal Houses of Indonesia)
FKN	Festival Nusantara Kraton (Indonesian Festival of Royal Houses)
FPP	Forest Peoples Programme (UK)
Golkar	Golongan Karya ('Functional Group', formerly the New Order 'state party')
gotong-royong	mutual help
hak ulayat	community 'right of avail' over territory (beschikkingsrecht)
HGU	Hak Guna Usaha (plantation concession)
HPU	Hak Penguasaan Hutan (forestry concession)
HRW	Human Rights Watch
hukum adat	customary law (adatrecht)
hutan adat	forest subject to customary rights
ICG	International Crisis Group
ICRAF	International Centre for Research on Agro-Forestry (World Agroforestry Centre)
IDRD	Institute of Dayakology Research and Development
ILO	International Labour Organization
inlander	'native' (official designation for an Indonesian under Dutch colonial rule)
ISEAS	Institute of Southeast Asian Studies (Singapore)
IWGIA	International Work Group for Indigenous Affairs
JAPHAMA	Jaringan Pembelaan Hak-hak Masyarakat Adat (Indigenous Peoples' Rights Advocacy Network)
jorong	settlement, hamlet (West Sumatra)
jujur	marriage with bride price (Sumatra)
kabupaten	administrative district
kaki lima	pedlar
kampong	village
kedaulatan	sovereignty
kekeluargaan	'family-ness'
kerakyatan	populism
KITLV	Koninklijk Instituut voor Taal-, Land- en Volkenkunde (Royal Netherlands Institute for Southeast Asia and Caribbean Studies)

KK	Kontrak Karya (mining concession)
klian	leader, head (Bali)
KMAN	Kongres Masyarakat Adat Nusantara (Congress of Indigenous Peoples of the Archipelago)
KOMNAS HAM	Komisi Nasional Hak Asasi Manusia (National Human Rights Commission)
komunitas adat terpencil	'isolated traditional community'
krama	custom (adat), customary institution/assembly, membership of such (Bali)
kraton	palace, royal house
KTP	Kartu Tanda Penduduk (residency/identity card)
KUD	Koperasi Unit Desa (Village Unit Co-operative)
LBH	Lembaga Bantuan Hukum (Legal Aid Institute)
LKAAM	Lembaga Kerapatan Adat Alam Minangkabau (Minangkabau Adat Council)
LKMD	Lembaga Ketahanan Masyarakat Desa (Village Community Resilience Board)
LMD	Lembaga Musyawarah Desa (Village Consultative Board)
LPD	Lembaga Perkreditan Desa (Village Credit Society)
lumbung desa	village rice barn
masyarakat adat	traditional community, indigenous people
masyarakat terasing	'marginalized/estranged community'
MPR	Majelis Permusyawaratan Rakyat (People's Consultative Assembly)
MPRS	Majelis Permusyawaratan Rakyat Sementara (Interim People's Consultative Assembly)
mufakat	consensus
musyawarah	deliberation
nagari	traditional village federation (West Sumatra)
NGO	non-governmental organization
NIAS	Nordic Institute for Asian Studies (Copenhagen)
orang asli	native or indigenous peoples
otonomi daerah	regional autonomy
P4	Pedoman Penghayatan dan Pengamalan Pancasila (Guidelines for the Understanding and Implementation of Pancasila)
Pancasila	Indonesian state ideology ('Five Precepts')
panembahan	prince
panghulu	lineage or clan head (West Sumatra)
Parindra	Partai Indonesia Raya (Greater Indonesia Party)

PDI-P	Partai Demokrasi Indonesia – Perjuangan (Indonesian Democratic Party)
pemangku adat	'bearer of custom' (traditional leader)
pemulung	scrap collector
Perda	Peraturan Daerah (Regional Regulation)
PKMT	Pemukiman Kembali Masyarakat Terasing (Resettlement [programme] for Marginalized Peoples)
PLTA	pembangkit listrik tenaga air (hydroelectric power station)
pribumi	native or indigenous
putera daerah	'native son' (indigenous person)
rakyat	the people
recht	law, right
rechtsgemeenschap	'jural community'
reformasi	reform, the reform era
rupiah	the currency of Indonesia, abbreviated Rp
SARA	suku, agama, ras dan antargolongan (ethnic, religious, race and inter-group relations)
sawah	wet ricefield
seka	traditional association (Bali)
semendo	marriage with groom price (Sumatra)
SKEPHI	Sekretariat Kerjasama Pelestarian Hutan Indonesia (Indonesian Network for Tropical Forest Conservation)
STORMA	Stability of Tropical Rainforest Margins (research project)
suku	ethnic or tribal group
suku terasing	'marginalized/estranged tribe'
tanah adat	land subject to customary rights
TNC	The Nature Conservancy
USAID	United States Agency for International Development
UU	undang-undang (law)
volksgemeenschap	ethnic community
Volksgeist	national spirit
WALHI	Wahana Lingkungan Hidup Indonesia (Indonesian Forum for Environment)
WWF	World Wide Fund for Nature
YLBHI	Yayasan Lembaga Bantuan Hukum Indonesia (Indonesian Legal Aid Society Foundation)
YTM	Yayasan Tanah Merdeka (a Central Sulawesi NGO)



Map 1.1 Indonesia

1 Introduction

Radical conservatism – the protean politics of adat

David Henley and Jamie S. Davidson

The Indonesian term *adat* means 'custom' or 'tradition', and carries connotations of sedate order and consensus. Yet in the last few years it has suddenly become associated with activism, protest, and violent conflict. Since the resignation of President Suharto in 1998 after almost a third of a century of authoritarian rule, communities and ethnic groups across Indonesia have publicly, vocally, and sometimes violently, demanded the right to implement elements of adat or *hukum adat* (customary law) in their home territories. In the name of adat, Balinese villagers have rejected 'mega-tourism' development projects and, in an atmosphere of mounting xenophobia, revived customary regulations forbidding the sale of land to outsiders and denying residence in the village to anyone not participating in its Hindu religious life. In the name of adat, a cultural and political awakening among the long-marginalized Dayaks of West Kalimantan has spawned a self-empowerment movement and led to mass violence against migrants to the province. In the name of adat, small-scale farmers in Sulawesi and Flores have challenged the legitimacy of national park boundaries, while local elites have hijacked the growing potency of adat for personal gain. In the name of adat, long-dormant sultanates, from Sumatra to the Moluccas, have suddenly been revived. In the name of adat, Jakarta-based and regional activists have combined forces to form Indonesia's first national indigenous peoples' lobby: AMAN or Aliansi Masyarakat Adat Nusantara – literally, the 'Archipelagic Alliance of Adat Communities'. 'If the state will not acknowledge us', declared AMAN provocatively at its first general congress in 1999, 'then we will not acknowledge the state'.

The Revival of Tradition in Indonesian Politics examines these and other manifestations of adat revivalism in post-New Order Indonesia, a movement which few Indonesia-watchers predicted and many have continued to ignore. Decentralization and the dismantling of the authoritarian state, most foreign observers hoped, would lead to a process of meaningful democratization, in which local commitments to upholding human rights would play a key role alongside a maturing civil society. Pessimists among them suspected, openly or privately, that the main outcome would be disorder and disintegration. But few expected the great experiment of *reformasi*

(reform) to produce a frantic rediscovery – or reinvention – of premodern sources of order and identity in the form of villages, tribes, and sultanates.

In specific regional contexts a political resurgence of adat has recently been described by a number of writers, notably Franz and Keebet von Benda-Beckmann (2001) on West Sumatra, Michel Picard (2005) on Bali, Lena Avonius (2004) on Lombok, Dik Roth (2002) on South Sulawesi, and Jaap Timmer (2005) on Papua. Greg Acciaioli (2001, 2002) and Tania Li (2000, 2001) – both also contributors to the present volume – have examined the organized *masyarakat adat* (adat community) movement in relation to the international indigenous peoples' movement which inspires it. So too have Gerard Persoon (1998) and Rebecca Elmhirst (2001). Some writers, including Antlöv (2003: 80–4), Bowen (2003: 59–63), McCarthy (2005: 57–8), and Sakai (2002: 245), have also perceived that, whether or not these developments fit into what Li (2000) calls AMAN's 'tribal slot', the diverse recent movements emphasizing adat can be seen as reflecting a single national trend. *The Revival of Tradition in Indonesian Politics* is the first book to bring together and compare many regional manifestations of this trend, and to assess their aggregate significance. It is also the first to place contemporary adat revivalism in the context of earlier political deployments of adat in Indonesia. These include the late colonial project to institutionalize 'adat law', a major study of which has recently been provided by Peter Burns (2004), and the use of ideas about adat to support authoritarian forms of national government – a topic adumbrated by David Reeve (1985) and later addressed directly by David Bourchier in a series of publications (1997, 1999, 2001) and an unpublished doctoral thesis (1996).

Two overarching questions are addressed in this book. First: what are the origins of adat revivalism in Indonesia? What historical factors have conditioned it, and why has it blossomed at this time and in its present contexts and forms? Second: to what extent is the adat revival a constructive contribution to Indonesia's new political pluralism, and to what extent a divisive, reactionary force? What does it tell us about the current condition of Indonesian society and politics, and what are its implications for the development of democracy, human rights, civility, and political stability in the future? Is it, in short, a good thing?

Adat revivalism is not the same as adat, and it is particular forms of traditionalism, rather than tradition itself – either in specific local contexts or in general – which are our main focus here. But this is not to suggest that the 'adat rights' advocated by today's masyarakat adat movement are necessarily 'invented traditions' (Hobsbawm and Ranger 1983). Particularly when it comes to land rights, the most important single issue in the current revival, the continuity between contemporary claims and past practices is often real. The influential idea that in Southeast Asia territorial customary rights are essentially colonial inventions (Peluso and Vandergeest 2001) is

misleading: before colonialism, many local communities and polities already defined, managed, and defended distinct communal territories (Adriani and Kruyt 1950–1, III: 24; Barton 1949: 32). Today, much of the way societies are organized, rights allocated, and disputes resolved in Indonesia still has little to do with the state or its law. The persistence of customary institutions is particularly evident in Bali, where, as Carol Warren shows in this volume (Chapter 8), contemporary campaigns have drawn on the *awig-awig* or 'customary charters' of Bali's impressively well organized *desa adat* (customary villages) to support exclusionary measures against migrants. Even in the context of contemporary adat revivalism, then, one way in which the term adat is used is simply to refer to particular time-honoured practices and institutions, inherited by communities rather than imposed by the state, which are seen as having continuing relevance to current political concerns.

Beyond this most concrete meaning, however, there are also two other, more abstract senses in which the term adat is used in contemporary political contexts. At a first level of abstraction, adat is a complex of rights and obligations which ties together three things – history, land, and law – in a way that appears rather specific to Indonesia. The essence of this linkage is that laws and rights are historical inheritances rather than artefacts of government, that the most important domain of law is the control of land, and that the historical control of land is in turn the most important source of land rights. The anthropologist John Bowen, in his recent study of Islam and adat in highland Aceh, observes that although struggles for greater local self-determination in Indonesia parallel recent 'indigenist' movements in other parts of the world, their ideological focus on adat – rather than, say, cultural distinctiveness or even, in most cases, indigeneity as such – means that their concerns are in some ways distinctive.

> If we consider only cases of conflicts and struggles for local control within Indonesia, a variety of issues appear. However, once we compare Indonesian cases with those occurring in other countries, the specificity of Indonesian ways of arguing about autonomy and peoplehood emerges more clearly. When they cite 'adat' as a normative reference point, Indonesians tend to downplay differences in language or claims to indigenousness, but generally highlight the control of territory and other resources, local norms of conflict resolution and rules of land management, and the glories of past sovereignty.
>
> Bowen (2003: 63)

At a second level of abstraction, adat also represents a vaguely defined but powerful set of ideas or assumptions regarding what an ideal society should be like. Neither our concentration in this book on power politics nor our use in the title – following the example of Tania Li in Chapter 15 – of the term 'deployment' should be taken to imply that political manifestations of adat necessarily reflect the cynical manipulation of tradition by self-interested

actors. Two of our contributing authors, Sandra Moniaga and Arianto Sangaji, are themselves committed protagonists in the movement to defend Indonesia's 'adat communities'. But as even adat activists concede, in many modern contexts adat refers not so much to a concrete body of rules and practices inherited from the past, or even to a coherent discourse concerning history, land, and law, but rather to a set of loosely related ideals which, rightly or wrongly, are associated with the past. These ideals can be summed up as: authenticity, community, harmony, order, and justice. They are invoked in varying proportions, and with varying levels of sincerity, to pursue ends that range from the control of resources and the exclusion of rivals to the protection, empowerment, or mobilization of the underprivileged – all in the name of adat.

Accounts of indigenous peoples' movements elsewhere in the world are often written from positions of more or less explicit sympathy for both the aims and the methods of their subjects. The contributors to *The Revival of Tradition in Indonesian Politics* appreciate the impulse to redress basic injustices which leads many people to reassert customary rights. Nevertheless their accounts are nuanced and critical when it comes to assessing the specific ways in which adat revivalists propose to remedy those injustices. On the one hand, there is no doubt that the revival of adat is in many ways an act of empowerment. Besides underwriting local claims to land and resources previously appropriated by the state, adat is also being used to circumvent Indonesia's notoriously corrupt and ineffective formal legal system, and to promote more democratic forms of village government. Groups identifying themselves as adat communities have demanded, and in many cases secured, greater representation in local government bureaucracies. By combining their forces to create AMAN, they have even acquired a new voice in national politics. But the choice of 'custom' and 'customary law' as vehicles of empowerment also brings with it inherent restrictions and dangers.

In the first place it is a choice from which millions of Indonesians, including rural migrants as well as city-dwellers, are effectively excluded (Fitzpatrick, this volume, Chapter 6). Much of the recent violence in Kalimantan has involved local peoples asserting what they regard as traditional rights of territorial control against the interests not of the state and its cronies but of poor Madurese migrants, and indeed their Kalimantan-born children. Here and elsewhere, adat has served as a rationale for ethnic exclusion and a justification for ethnic violence. A second problem concerns the political implications of adat for 'adat communities' themselves. To what extent can communities governed by tradition (still) be said to exist in Indonesia, and to what extent do those who claim to speak for them really represent their members? How are tradition and traditional rights defined, and by whom? In the past, the social order in Indonesia was seldom egalitarian. Even among stateless peoples, individual interests were often subordinated to those of collectivities dominated by traditional elites. The informal, uncodified

character of most 'adat law', moreover, makes it vulnerable to political manipulation, as does the idealization of order and stability with which adat is associated. Not surprisingly, then, adat-based movements often threaten to become bandwagons for the pursuit or defence of private wealth and power. The role of adat in political ideology at national level can readily be interpreted in the same way.

The remainder of this introductory chapter is divided into eight sections, of which the first four deal with the character and causes of the adat revival. What are the origins of the current enthusiasm for a return to adat in Indonesia? What gives adat, as a political cause, its ability to attract and mobilize support? And why has the mobilization happened now, in a sudden post-Suharto efflorescence of traditionalism and indigenism? Four broad sets of factors are examined. The first is the inspiration and support of international organizations and networks committed to the rights of indigenous peoples, the preservation of cultural diversity, and the idea that community and tradition can help protect the natural environment. The second and third, dealt with in sections entitled 'Pressure and oppression under the New Order' and 'Opportunities and exigencies of reformasi', have to do with the recent political and economic history of Indonesia itself. A fourth root of the revival, discussed under the rubric 'Ideological inheritances', is historical, and lies in the role which adat has played in the Indonesian political imagination since the beginnings of nationalism in the early twentieth century. In the remainder of our introduction we turn to a critical evaluation of adat revivalism. Do the divisive and illiberal tendencies of the movement outweigh its potential to emancipate marginalized groups, relieve inequalities and injustices, and create grounds for stability in a time of change? In the process of examining these questions we will also briefly introduce all the other papers in the volume, on the arguments of which our own are heavily based.

International influences

The rise of the 'indigenous peoples' movement' is often thought of as the continuation at sub-national level of an old tradition of anti-imperialism (Colchester and Lohmann 1993; Wilmer 1993). But it has also reflected something new: a 'cultural turn' (Chaney 1994; Jameson 1998) in the intellectual life of what used to be the political left, leading to a shift in practical politics toward the defence of cultural diversity. In the last decades of the twentieth century a growing postmodern disillusionment with universalistic models of human progress, and with grand political projects like nationalism and socialism, led in the rich countries to a new sympathy for the predicament of underprivileged groups defined essentially by ethnicity and indigeneity rather than poverty, class, or nationality. At the same time, environmentalist movements were emerging as guardians of a new type of

political idealism to replace the old egalitarian idealism of the left. Turner (2001: 207) writes of the emergence in this period of a new triad of 'post-national citizenship rights': ecological, aboriginal, and cultural. In the previous era of high modernism (from, for argument's sake, 1789 to 1968) it had been civic, electoral, and welfare rights which were deemed central to citizenship. Now these were eclipsed in the eyes of many by the right to a safe environment, the right of access to ancestral land, and the right to an authentic cultural heritage and identity.

Out of this change in the ideological orientation of political altruism in the developed countries emerged a movement for the defence of what have variously been called indigenous, tribal, or 'Fourth World' peoples. In the USA a political awakening of Native Americans, inspired partly by the black civil rights movement, was already under way in the early 1960s. It was followed by the establishment in other parts of the First World, partly on the initiative of professional anthropologists, of proxy movements on behalf of indigenous peoples in the developing countries: the International Working Group on Indigenous Affairs (IWGIA) in Denmark in 1968, Survival International in Britain in 1969, and Cultural Survival in the USA in 1976. In the tropics the already marginal situation of these peoples had in many cases deteriorated rather than improved following the formal decolonization of the countries in which they lived. Typically inhabitants of rainforest areas under threat from commercial logging, or from agricultural colonization by immigrants, they were readily perceived as stewards of nature and repositories of 'indigenous environmental knowledge', as well as bearers of unique and vulnerable cultural traditions.

For practical reasons, as well as out of a postmodern scepticism toward the very modern institution of territorial sovereignty, indigenous rights campaigners have stopped short of advocating separate statehoods for what remain of the world's tribal peoples. But they have called for forms of 'self-determination' and 'autonomy', consistent with Turner's 'post-national citizenship', within the existing framework of states. And the unprecedented ease of global communications has enabled them to interact directly with the intended beneficiaries of their campaigns, whose own political ideals and struggles have been shaped by that interaction and by the access to economic resources and media attention which it provides. Within the developing countries new national non-government organizations (NGOs), connected with their foreign and transnational counterparts, have also emerged to advocate indigenous rights. The result is the oxymoronic phenomenon of international indigenism, a cosmopolitan nativism embracing indigenous peoples from Inuit to Iban (Niezen 2003). Today access to an indigenous identity, some commentators go so far as to argue, is in practice determined less by ancestry, culture, or marginality than by familiarity with the international discourse and politics of indigenous rights (Jung 2003; Li 2000). 'It takes modern means to be traditional', as Hirtz (2003) puts it in the title of an article on indigenism in the Philippines.

Although the movement was initiated partly by outsiders, representatives of some indigenous populations, particularly in the Americas, participated at an international level from the beginning. A World Council of Indigenous Peoples, founded in 1975, quickly seized on the United Nations as an arena in which to lobby for its principal demands: the recognition of traditional land rights, and the right to self-determination. In 1977, the UN hosted a landmark Conference on Discrimination against Indigenous Peoples of the Americas. A UN Working Group on Indigenous Populations (from 1996, Peoples) was formed in 1982, publishing extensive studies on the question of indigenous rights. In 1989 the International Labour Organization passed ILO Convention 169, the first international instrument to reject the assimilationist approach to indigenous populations and call instead for 'the full realization of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions' (article 2/2a). Across Latin America, governments began to abandon policies of forced integration. In 1992 the High Court of Australia recognized aboriginal land rights in the landmark Mabo case, and the Nobel Peace Prize was awarded to Maya activist Rigoberta Menchú. In the following year the UN announced an International Decade of the World's Indigenous People to begin in 1995, and a second such decade was inaugurated in 2005.

As this prolongation of the UN campaign suggests, the cause of indigenism is far from won, and many governments are still reluctant to recognize its legitimacy. ILO Convention 169, for instance, has been ratified by 17 countries including many in Latin America, but not by Indonesia or any other Asian state. A 1994 UN Draft Declaration on the Rights of Indigenous Peoples which includes even stronger provisions, particularly with regard to land rights, remains just that – a draft. To this day indigenous peoples in many parts of the world are among the most obvious 'victims of progress' (Bodley 1975, 1999), facing systematic discrimination, high rates of poverty and illiteracy, and continuing loss of traditional livelihoods as the land on which they live is auctioned off to logging and mining interests. Nevertheless by the time indigenism found resonance in activist circles in Indonesia in the early 1990s, a political sea-change had taken place in the world at large whereby indigenous peoples had 'reentered the arena of power' (Wiessner 1999: 58).

In Indonesia today the most important institutional advocates of indigenous rights are the environmental NGO WALHI (Indonesian Environmental Forum), dating from 1980, and the indigenous peoples' federation AMAN, founded in 1999. Both have been frequent recipients of foreign donor funding, and both are effective users of international media. Much of the literature produced by AMAN, for instance, is linked to the website of Down to Earth, a transnational group promoting 'environmental justice' in Indonesia. AMAN is also involved in international indigenous rights

advocacy organizations, including IWGIA (Copenhagen) and the Asia Indigenous Peoples Pact, a Thai-based confederation established in 1992. Local and regional organizations have similar overseas links. In West Kalimantan, for example, the 'Institute of Dayakology' (formerly the 'Institute of Dayakology Research and Development', IDRD), an NGO at the centre of the Dayak self-empowerment movement, has received direct grants from the Ford Foundation and the Dutch Catholic aid organization Cebemo. It plays host to foreign activists and concerned scholars, its own activists participate in international conferences, and its bookstall sells a range of critical, anti-development literature. A controversial English-language article from IDRD's magazine *Kalimantan Review*, in which Dayak violence against Madurese migrants is defended as an inevitable consequence of 'the obligations and demands of the *adat*, or indigenous laws', is the focus of Davidson's contribution to this volume (Chapter 10).

Indigenism as an ideology was pioneered in the Americas, Australasia and Scandinavia, where in recent centuries European settlers and their descendants have conquered and displaced pre-existing 'aboriginal' populations. In Indonesia, as in most Asian contexts (Grey 1995; Kingsbury 1998), the business of distinguishing 'indigenous' from 'non-indigenous' groups is more complicated, and, like many Asian governments, the Indonesian state under Suharto used the truism that almost all Indonesians are indigenous to Indonesia as a pretext for refusing to accept the terms and implications of the international debate (Persoon 1998: 281). Indonesian political activists, by contrast, did not hesitate to use the English expression 'indigenous people' even in Indonesian-language publications. *Masyarakat adat* was chosen as the preferred Indonesian equivalent at a landmark meeting of indigenous leaders which took place in Tana Toraja (South Sulawesi) in 1993 and which, as Sandra Moniaga recounts in this volume (Chapter 12), can be said to mark the birth of today's Indonesia-wide indigenist movement. Nevertheless more literal translations of 'indigenous people', such as *masyarakat asli* and *penduduk asli*, long continued to have some currency (Li 2000: 155). If the international discourse of indigenous rights has deeply influenced the contemporary conceptualization of adat, so too have environmentalism and the idea of 'community-based natural resource management', which provides in the 'managed commons' a new way to model, idealize, and justify communal land and forest tenure. Publications by Indonesian indigenous rights activists are rich in references to environmental politics, sustainability, and conservation (Moniaga 1993; Sangaji 2002).

The support and inspiration of the international indigenist (and environmental) movements, then, are an important part of the background to the adat revival. Nevertheless it is not the whole story. Not all exponents of post-Suharto adat revivalism see themselves as falling into the category of 'indigenous peoples'. The restoration of pre-New Order *nagari* (village) political institutions and land rights in West Sumatra since 2001, as described

in this volume by Renske Biezeveld (Chapter 9), is the work of the Minangkabau ethnic group which enjoys a position of unchallenged demographic and political dominance within its own province, is influential beyond its numbers on the national stage, and shares the Islamic religion of the majority of the Indonesian population. Although the powerful traditionalist movement in Bali, examined in this volume by Carol Warren (Chapter 8), is partly a reaction against migration and the economic power of non-Balinese interests on that island, it shows no strong foreign inspiration and is not connected with AMAN or related masyarakat adat advocacy organizations in Indonesia. The current attempts to revive traditional sultanates and kingdoms described by Gerry van Klinken in this volume (Chapter 7) not only have nothing to do with international indigenism but are radically at odds with its egalitarian spirit.

Those local adat-based movements which do fit into the 'tribal slot', it is equally important to note, often originated during the height of the New Order out of concrete conflicts between local farmers and state-backed big business over land, and only later began to recognize themselves as components of a wider struggle for indigenous rights. The seminal 1993 masyarakat adat meeting in South Sulawesi, for instance, was attended by local leaders whose activism had been forged in the crucible of opposition to land appropriation by the state pulp, paper, and timber plantation company Indorayon Utama in North Sumatra, by plantation companies in the Ketapang district of West Kalimantan, and by the massive Freeport copper mining concern in Papua (Moniaga, this volume, Chapter 12). The fact that the meeting was sponsored by WALHI, meanwhile, reflected not only the close association between environmental concerns and indigenous rights in international NGO circles but also the fact that the New Order authorities were more tolerant of (ostensibly) environmental activism than of movements concerned explicitly with social injustice (Cribb 1998). The roots of today's masyarakat adat movement, then, lie in domestic Indonesian politics as well as in international activism. It may be true that for some international activists, as Avonius (2004: 112) alleges, adat as such is little more than 'a handy tool' in the struggle against globalization. But without what Tsing (2005) calls the 'friction' of engagement with local concerns, the international bandwagon of indigenism, for all its range and power, would still have gone nowhere on Indonesian terrain.

Pressure and oppression under the New Order

The New Order was an authoritarian developmentalist regime with a heavy-handed approach to nation-building. While Indonesia's cultural diversity was acknowledged in accordance with the national motto 'Unity in Diversity' (*Bhinneka Tunggal Ika*), no political rights were allowed to follow from cultural difference or ethnic identity. Official celebrations of national diversity, most famously in the 'Beautiful Indonesia in Miniature' theme park

(Taman Mini Indonesia Indah) in Jakarta, had an abstract, symbolic quality, reducing local cultures to a standardized spectacle of picturesque 'adat houses' and 'adat costumes' (Acciaioli 1985; Hitchcock 1997). In West Sumatra a 'Minangkabau adat council' (Lembaga Kerapatan Adat Alam Minangkabau) was established in 1966 to help rid the province of communists (Kahin 2000: 246), and elsewhere New Order development programmes sometimes appropriated local adat terminologies for propaganda purposes (Acciaioli 1997). But for the most part, political – as opposed to cultural – discourse concerning adat was restricted largely to the national level where, as we shall see, the traditional ideals of harmony and solidarity were deployed in propaganda designed to promote national unity and legitimate the suppression of disunity. Actually functioning traditional institutions of local governance, meanwhile, were swept away by new laws on regional and village administration (most importantly Laws 5/1974 and 5/1979) which replaced adat leaders, elected or otherwise, with elected but state-screened village headmen operating within a uniform nationwide bureaucratic structure (Kato 1989).

Religious orthodoxy, ironically given Indonesia's legendary reputation for religious tolerance, also became a matter of direct state concern. The first of Sukarno's *Pancasila* or 'Five Principles' of Indonesian nationhood, *Ketuhanan yang Maha Esa* or 'Belief in One God', was interpreted as proscribing not only atheism and Javanese syncretism, both of which were directly identified with communism, but also all the traditional polytheistic or 'animist' beliefs of those marginal, formerly tribal groups, subsequently identified as masyarakat adat or indigenous peoples, which had not yet converted to Islam or Christianity. Inhabiting inaccessible or border areas and 'lacking religion', these groups were regarded as vulnerable to communism and other forms of sedition. Many were literally forced to make an immediate choice between Islam and Christianity: 'I don't care which religion they have', as one regional commander in West Kalimantan put it, 'as long as they have one' (*Tempo*, 26 October 1974).

In other respects too, New Order development and 'national integration' priorities placed particularly heavy pressure on indigenous peoples. The persistence of 'primitive' communities within the country, in the eyes of the regime, sullied the modern image Indonesia sought to project to the outside world. State policy toward such communities was essentially a continuation of the colonial 'civilizing mission' in its crudest forms, including the forced relocation of swidden farmers in new settlements where they were obliged to adopt intensive agricultural techniques. Many of the areas inhabited by indigenous peoples were also prime targets of the state's 'transmigration' programme, designed primarily to relieve population pressure in poor parts of Java and Bali, through which over the course of the New Order more than five million people were relocated to sparsely populated tracts of land in the outer islands (Levang 1997). Abundantly funded in its heyday by the World Bank and other international donors, *transmigrasi* led in many places

to serious tensions between the immigrant and indigenous populations. Sometimes the officially supervised settlement was matched or exceeded by an additional inflow of 'spontaneous' (unorganized) transmigrants, especially Madurese in Kalimantan and Bugis throughout eastern Indonesia. As long as the repressive apparatus of the New Order was strong, the ethnic and resource conflicts associated with domestic migration mostly remained latent. But beginning in 1997, the settler frontiers in Kalimantan became scenes of violence on a scale that made international headlines. There adat revivalism, as noted, was directly implicated in the process of accelerated political self-organization among Dayaks which immediately preceded the killings.

Even more important than transmigration as an incubator for today's masyarakat adat movement, and for the adat revival in general, was the alienation of ancestral land by the government for conversion into logging and mining concessions, oil palm and pulpwood plantations, and national parks. The New Order, it is often said, placed greater value on the vast natural resources of the outer islands than on their sparse populations. Certainly local interests were seldom allowed to stand in the way of extractive industry and agribusiness. Village heads and others who balked at surrendering adat land to the state for 'development' purposes were subject to intimidation, detention, or worse. The land was appropriated – in cases of communal or uncertified ownership, typically without any compensation payment – and delivered into the hands of politically connected logging, mining and plantation concerns. The resulting profits flowed overwhelmingly to Jakarta and on overseas, what little 'trickle-down' there was trickled mainly into provincial capitals, and local people themselves were often left with little but denuded hillsides and poisoned rivers.

In the logging sector much of this activity, despite its dependence on bureaucratic and military complicity, took place entirely outside the law (McCarthy 2002; Obidzinsky 2003). A great deal of land alienation, none the less, also took place in technically legal ways. The Basic Agrarian Law passed under Sukarno in 1960, although designed partly to protect smallholders, already indicated that all land rights were alienable if they conflicted with the 'national interest'. While this provision was included partly with a view to redistributive land reform in favour of the rural poor, the law also provided explicitly for the leasing of state land to business organizations. More specific enabling legislation with respect to forestry and mining leases was subsequently enacted by the New Order itself, and the Basic Forestry Law of 1967 (no. 5) is generally interpreted as giving all rights over forests to the state (Haverfield 1999: 63). 'Indonesia owns this land, not you', surveyors for plantation concerns told villagers in South Kalimantan as they plotted the borders of concessions through planted orchards and fallowed swiddens in 1997 (Tsing 2002: 127). This situation of legalized land-grabbing meant that indigenous land claims would explode

back into the open whenever political conditions made it less difficult and dangerous to pursue them, and that customary rights, not the law of the state, would be seen as the just and appropriate basis on which to pursue such claims.

In part, these developments were paralleled in the at first sight very different setting of Bali, where it was tourism, rather than timber, which drew the attention of outside power and capital. On Bali during the last decade of the Suharto regime a steady stream of unpopular large-scale tourist resort and real estate projects, often located in the immediate vicinity of temples or at other sites of ritual significance, offended local religious sensibilities as well as creating resentment among those who involuntarily lost land or access to land. A related concern was the growing number of non-Balinese migrants attracted by the economic opportunities generated by the burgeoning tourist industry. The newcomers were perceived as a source of unwelcome competition in economic life, and as a burden on the infrastructure of the urban areas where they mostly lived. Many Balinese also associated them with criminality. At the same time Jakarta's intrusive administrative reforms were creating tension between Bali's traditional institutions of village governance, which depend heavily on intricate systems of religious leadership and ritual co-operation, and the superimposed national grid of *desa dinas*, official or bureaucratic villages (Warren 1991, 1993).

Bali and the tribal peripheries of Indonesia were extreme cases in terms of the intensity with which the state-backed globalization of the New Order period impinged on the lives and livelihoods of their indigenous populations. To a lesser extent, however, similar pressures were also felt elsewhere. In West Sumatra, where there was much less migration or foreign investment, many communities nevertheless saw what was regarded as adat land expropriated by the state and its agents for conversion into oil palm plantations or designated, often (ostensibly) for ecological reasons, as protected forest reserve. As in Bali, New Order administrative reforms had also heavily disrupted local political institutions. Among the Minangkabau, the smallest political unit above the level of the matrilineal kinship group had traditionally been a federation of often quite dispersed settlements called a *nagari*. Now, however, these were dismembered into newly constituted 'villages' – *desa* – along Javanese lines (Von Benda-Beckmann and Von Benda-Beckmann 2001: 10).

During the New Order period there were already cases in which communities dared to contest the loss of their land in sustained protest campaigns. In 1993 and 1994, for example, the construction of a resort complex facing the iconic temple of Tanah Lot provoked unprecedented local protest in Bali, although ultimately the project went ahead as planned. Besides village people, this and subsequent campaigns against 'mega-tourism' projects also involved members of the Balinese political elite, which had profited substantially from tourism in the early Suharto years but now

found itself taking a smaller and smaller share of the economic benefits. Losing control over tourism themselves, Balinese leaders looked increasingly to ethnicity and adat as a basis on which to mobilize resistance to the onslaught of non-Balinese capital (Couteau 2002). Manuel Castells (1997: 2) has written of 'resistance identities' and 'movements which build trenches of resistance on behalf of God, nation, ethnicity, locality' against the forces of globalization. In Bali during the late New Order, adat was fast becoming part of a Balinese resistance identity.

On Indonesia's remote and sparsely populated forest frontiers, the odds against effective resistance to state-backed business interests and unwanted immigration were even higher than in Bali. Yet here too, some organized local movements against land-grabbing by logging and mining concerns did emerge even at the height of the New Order. The leaders of several such protests, as noted, were involved in the genesis of the nationwide indigenous peoples' movement in Sulawesi in 1993. With the political left all but eliminated, as yet they found few allies on the national political scene. Suharto's announcement of a new political 'openness' (*keterbukaan*) in 1989, although in many ways a false spring, had nevertheless made possible some growth of NGO activity (Eldridge 1995) – particularly among the environmental activists who, as in other Asian countries where overtly populist movements were suppressed, sought to link ecology and conservation with issues of social justice and democracy (Hirsch and Warren 1998). Additional support for the incipient masyarakat adat movement came from the human rights lawyers of the LBH (Lembaga Bantuan Hukum, Legal Aid Institute), an NGO dating from 1971 which was tolerated by the New Order out of a concern, in some contexts, to maintain a degree of legal respectability (Lev 1987). Together with WALHI, LBH also became involved in more specific indigenous rights campaigns, including one which achieved rare success in 1995 when a hydroelectric dam plan for Lake Lindu in Central Sulawesi was cancelled after protests in the province and representations in Jakarta (Acciaioli 2001: 93–4; 2002: 231–2).

Opportunities and exigencies of reformasi

The real florescence of adat revivalism came in the new-found political freedom of the reformasi era, immediately following the downfall of Suharto in May 1998. Farmers dispossessed for the sake of mining, logging and other forms of 'development' now dared to demand (fairer) compensation, or their land back, in the name of customary rather than state law. There was also a delayed reaction against the suppression of adat itself under Suharto: a rejection of modernity, in so far as the modernity promoted by state policies from 1965 to 1998 had entailed the demise of old and locally respected institutions. Individuals eligible for positions of leadership in traditional institutions, meanwhile, saw in the revival of adat an unexpected opportunity to realize personal ambitions. Particularly in the sparsely populated outer

islands, the question of who controlled the local resources made accessible by the retreat of the central state became one of great significance and urgency. Adat, then, became both a means of redressing past injustices and a way of securing an advantageous position in the post-Suharto scramble for power in the regions. At the same time weakening central authority, deliberate administrative and fiscal decentralization, and economic slowdown made it both possible and necessary to find bases for political order other than the bureaucratic hierarchy, economic patronage, state propaganda, and military force of the New Order. The difficulty of creating new democratic institutions at the local level, the prevalence of social injustice, the weakness of the existing legal system, and the threat of violence and disorder inclined people in many places to look to tradition as a source of both consensus and justice.

This was a time of almost uniquely rapid change in Indonesia. In the last New Order general election in 1997, three tame, state-approved parties took part; in the first election of the reformasi era in 1999, forty-eight. The estimated number of NGOs in Indonesia rose sevenfold between 1996 and 2000 (Hadiwinata 2003: 1). The First Congress of Indigenous Peoples of the Archipelago, during which AMAN was founded in March 1999, symbolized the radical changes which were taking place. Held in Jakarta amid considerable media attention, it featured impassioned discussions on military repression and the right of indigenous peoples to self-determination. It also confronted the government with a variety of outright demands, including demands for the return of all customary territory to adat communities and the abolition of the New Order organs of village governance (LMD and LKMD) in favour of adat councils (Acciaioli 2002: 218–19). Its dramatic high point was a public threat, by more than two hundred representatives of adat communities scattered across Indonesia from Aceh to Papua, not to recognize the authority of the Indonesian state if the state did not recognize theirs. Less than a year earlier such things would have been almost unthinkable and if they had been planned, security forces would certainly have nipped the event in the bud before it could begin.

At local level it was a similar story. In Bali there was what Warren in this volume (Chapter 8: 187) describes as 'an explosive reassertion of adat claims of authority over the local customary domain'. In one case, 'pressure' from villagers forced a construction company to remove hundreds of cubic metres of limestone that had already been dumped in an estuary to reclaim land for the site of a hotel. In Papua, where adat likewise showed 'signs of evolving into a political ideology', the Freeport copper mining company and other major extractive enterprises came under redoubled pressure to acknowledge obligations arising from their use of adat land (ICG 2002: 13, 19–20). In West Sumatra, preparations were quickly made to revive the nagari as a unit of governance and restore to it full jurisdiction over the communal lands formerly under its control (Von Benda-Beckmann and Von

Benda-Beckman 2001). Similar movements to undo the New Order's standardization and disempowerment of local political institutions emerged in South Sumatra, and in the Toba Batak area of North Sumatra (Charras 2005: 105–6; Sakai 2002: 248–9). If the New Order had tolerated adat only as cultural spectacle, its collapse 'allowed the return of the repressed, the other side of adat, the claims to provide a normative base for a local *political* community independent of the state' (Bowen 2003: 255, original emphasis).

In some cases, the political renaissance of adat was paralleled by a revival of traditional religious practices which had been suppressed for the sake of religious orthodoxy. In Catholic Flores as described by Maribeth Erb in this volume (Chapter 11), local appreciation for pre-Christian ritual had already been stimulated during the late New Order period as a result of interest on the part of post-Christian Western tourists. But the position of the church, in accordance with New Order ideology as well as conservative Catholic theology, had generally remained inflexible. Against this background reformasi, when it came, was interpreted on Flores as a process of religious as well as political liberation. One striking sign that a new era had begun was the revival of rituals involving blood sacrifice. No open return to religious syncretism, on the other hand, seems to have accompanied the adat revival in Islamic contexts. In the Wetu Telu villages of Lombok the traditional syncretic version of Islam, being thought blasphemous and backward, had been actively and sometimes violently suppressed during the New Order by more orthodox Muslims acting with military support. Yet after 1998 those involved in reviving adat councils and land rights in Lombok explicitly dissociated adat from the supernatural sphere, and the cultural aspect of the movement was largely limited to a revival of traditional dress (Avonius 2004: 16, 37–41, 119–20, 150–5). In West Sumatra, likewise, adat is seen as a secular rather than religious complement to Islam (Biezeveld in this volume, Chapter 9).

Under the short presidencies of B.J. Habibie (May 1998 to October 1999) and Abdurrahman Wahid (October 1999 to July 2001), the state itself took to underwriting – at least in theory – new political roles for adat at local level. The regional autonomy laws passed in 1999 (nos 22 and 25) allowed specifically for internal institutional reform at village level, highlighted the importance of local adat in village governance, and obliged administrators at district levels to 'recognize and honour the rights, origins and customs and traditions of the village' (Acciaioli 2001: 88). In the same year, the government adopted the term *komunitas adat terpencil* – 'isolated adat community' – as its official designation for the groups previously known as *masyarakat terasing* or 'estranged communities' (Duncan 2004: 90). In 2001, the Supreme Parliament (MPR) decreed that all laws and policies on natural resource management and land tenure were to be revised in accordance with principles that 'recognize, respect and protect the rights of adat law communities' (McCarthy 2005: 58). In the Special Autonomy Law for Papua (no. 21/2001) also passed that year, a bloc of seats in the Papuan People's

Assembly (Majelis Rakyat Papua, MPR) was reserved for representatives of adat communities. The same law also recognized the communal ownership of land in Papua, and obliged outside investors to negotiate with local communities over land use (McGibbon 2003: 200).

The implementation of all this legislation falls far short of its aims and in some cases, notably that of the Papuan autonomy law, it has been deliberately obstructed. Nevertheless it can clearly no longer be said that political adat is synonymous with local resistance to state authority. While AMAN and other national groups have generally stuck to their oppositional stance, at regional and local level the process of decentralization has facilitated various kinds of accommodation between adat advocates and the state. Immediately after the fall of Suharto, priority was given to restoring a healthier political balance between Jakarta and the regions – and deflecting criticism and discontent – by devolving administrative and financial powers to provincial and (especially) district levels. The resulting regional autonomy (*otonomi daerah*) programme was the biggest administrative reorganization in the history of the Indonesian state, and transformed one of the most centralized countries in the world into one of the more decentralized. By opening up, and at the same time raising the economic stakes of, local politics, it has precipitated intense struggles for control of the local state, struggles from which adat leaders and advocates have not remained aloof. In Kalimantan, for instance, adat-oriented NGOs have actively backed particular candidates for district head (*bupati*) posts (Davidson 2005; Van Klinken 2002), and many adat leaders have pursued what Greg Acciaioli in his contribution to this volume (Chapter 13: 302) calls 'officializing' strategies, using formal and informal relations with local administrators to seek official recognition for adat claims.

Since 1998, in fact, adat revivalism at the local level has increasingly been driven less by the state's failure to respect specific adat rights than by its failure to maintain conditions of peace and order, in the eyes of very many Indonesians the central task and function of government and adat alike. The episodes of ethnic violence which broke out in Kalimantan, the Moluccas, and elsewhere were only the most dramatic aspects of a general deterioration in security of life and property caused among other things by the economic crisis of 1997–8, and by a partial withdrawal of military power from the civil sphere. In some areas the disorder was exacerbated by private militias which, although set up ostensibly to help remedy the situation, developed criminal tendencies themselves and became embroiled in violent conflicts with one another (ICG 2003: 14–22).

> The years 1999 and 2000 were extremely violent for Lombok: criminals were harassing people, *pamswakarsas* [civil security groups] were hunting and lynching criminals, and the police were trying to control the civil security groups. The anti-Christian riots in January 2000 were the biggest individual incident, but smaller-scale acts of violence

> occurred frequently. In 2000, robberies, actions of mob justice against captured criminals, fights between villages (*bentrok antardesa*) and between various organisations caused deaths on a weekly basis on Lombok.
>
> Avonius (2004: 12)

One widespread reaction to this disturbed existence was a yearning for the order of 'adat and its rituals' (Avonius 2004: 214). In Bali, where religious life has always tended to flourish during crises, a florescence of expensive Hindu ritual took place despite adverse economic conditions (Warren, this volume, Chapter 8). There were more concrete attempts, too, to deploy adat as a force for the restoration of peace and order. The existing Balinese institution of *pecalang* or 'adat police', strongmen charged with enforcing ritual and community regulations, was developed into an island-wide security apparatus. On Bali it was the pecalang, rather than private vigilante groups, which rose on the tide of public concern over criminality (ICG 2003: 2–11). In Kalimantan, Sulawesi and the Moluccas, attempts were also made to resolve ethnic and religious conflicts using adat reconciliation and peace ceremonies. In August 2000 President Wahid himself attended what Aragon (2001: 70) describes as a 'neo-traditional adat ritual', involving the burial of a buffalo head, which it was hoped would restore peace between warring Christian and Muslim parties in the Poso area of Central Sulawesi.

Nostalgia for a more stable – and colourful – past is equally apparent in the 'return of the sultans' as described in this volume by Van Klinken (Chapter 7). In Indonesia the national revolution, Van Klinken observes, was even more hostile to indigenous kings and sultans than in Vietnam. Only the sultanate of Yogyakarta, which offered crucial support to the Republic during the independence struggle, succeeded in retaining any official status. But in recent years over twenty other principalities in Sumatra, Java, Kalimantan, Sulawesi, and the Moluccas have been revived or resurrected in some form, albeit often as small and apparently quixotic endeavours. Many of the multiplying kings and sultans have joined a pan-Indonesian network of royal houses, the Forum Komunikasi Keraton-Keraton di Indonesia (FKKKI), the activities of which focus on a series of 'Nusantara Kraton Festivals'. The first two such festivals, held in 1995 and 1997 in Solo and Cirebon respectively, were New Order cultural spectacles paid for by the Department of Tourism. But the third, in Kutai (East Kalimantan) in 2002, was a political event at which sultans declared intentions to prevent ethnic conflict within their realms and reclaim former crown lands containing forestry and mining concessions. The FKKKI, in fact, has come to resemble a sort of aristocratic counterpart to AMAN, its members referring to themselves by the traditional title of *pemangku adat* or 'bearers of adat' and promising a return to local roots as well as clean and just government.

Like the wider adat revival, royalist re-traditionalization is not without support from within the state. Many of the would-be sultans, as Van Klinken notes, are Golkar supporters who enjoy cordial relations with key regional

officials. For a time a bill was under consideration by the Indonesian parliament which would have greatly enhanced the power of the sultan of Yogyakarta by making him automatically also the governor of the Special Province of Yogyakarta. While their concrete gains to date have been limited, the remarkable waning of positive republican sentiment in Indonesian public opinion has encouraged those claiming royal authority to do so in a tone of unashamed entitlement. In February 2002, a group of Malay aristocrats in Riau visited the provincial governor to protest at their lack of official involvement in the creation of the new breakaway province of Insular Riau. The new province, they complained, must above all be a Malay province, and their exclusion from the planning process 'did not take into consideration Malay *adat*' (Faucher 2005: 128).

In many cases, nevertheless, there is more to the royalist revival than nostalgia and opportunism. Where a traditional polity once encompassed, and to some extent claimed the loyalty of, more than one ethnic or religious group, its surviving remnants may offer hope for restoring peace and unity in conflicts which the modern state has been unable to resolve. In the Kei islands of Southeast Maluku, customary chiefs or *raja* sidelined by the New Order's administrative reforms re-emerged in 1999 as mediators between Christian and Islamic villages as religious tensions mounted (Laksono 2002). In Luwu, South Sulawesi, where the provincial government and police proved powerless to prevent violent clashes between local Muslim communities and Christian settlers from the Toraja highlands, both sides were prepared to accept the mediation of the incumbent Datu (king) and 'adat council' of Luwu, a kingdom abolished four decades earlier which in its heyday had encompassed both lowland and upland populations (Roth 2002: 206–10). In North Sumatra, royalist rhetoric has been employed by landless farmers of Javanese and Batak as well as Malay origin who invoke the name of the Malay sultan of Deli, as head of a multiethnic 'Deli adat community', in support of their claims to land currently controlled by a private company (Bowen 2003: 60–1). Here we are reminded of the 'integrative' role of the sultans of Yogyakarta, whose contributions to progressive political debate, as well as social stability, Van Klinken acknowledges.

In its ambiguous and protean character, by turns progressive and reactionary, emancipating and authoritarian, idealistic and manipulative, adat revivalism in some ways epitomizes the paradoxes of the post-New Order era. This, after all, has been an era in which unprecedented political freedom and strikingly successful formal democratization – in the free and peaceful general election of 2004, voter turnout was 84 per cent – have gone hand in hand with ethnic violence outside the electoral sphere, burgeoning corruption, continued radical failure of legal and judicial institutions, and strong persistence of New Order military, bureaucratic, and business interests in most areas of political life. The political ambiguity of adat, however, also has its own historical roots in the ideological legacy of Indonesian nationalism.

Ideological inheritances

Like many key concepts, it was argued above, adat has many meanings. In modern contexts it tends to be partly a specific body of locally inherited tradition, partly a pan-Indonesian discourse linking history, land and law, and partly a political ideology, more nebulous but likewise of nationwide appeal, which identifies adat with authenticity, community, order, and justice. It is important not to exaggerate the extent to which the national discourse and ideology are separate from the local traditions. Land and access to it are natural preoccupations of any agrarian society, while historical precedence and local authenticity are characteristic criteria of status and entitlement in traditional cultures throughout Indonesia and beyond (Fox 1997; Fox and Sather 1996). Solidarity, co-operation, and stability are familiar ideals (although not necessarily realities) in all tribal and peasant societies, where the rule of state law is weak or absent and people depend heavily on each other's co-operation for subsistence and security. In Java these conservative values are subsumed under the overarching and historically persistent ideal of *rukun* or 'harmony' (Holleman 1927; Hawkins 1996). Nevertheless the specific articulation of land with law and community with justice, and the effectiveness of adat as a political rallying cry in modern Indonesia, also have to do with the way in which adat, in the course of the twentieth century, became intertwined with state ideology and national identity. The following section explores these twentieth-century ideological inheritances and their influence on contemporary adat revivals.

A key part of the story here has to do with the history of colonial law in Indonesia. Throughout the Dutch period the situation in Indonesia was one of 'legal pluralism', a term which is now used in many contexts but actually has its origins in the historiography of Dutch colonial law (Von Benda-Beckmann 1997: 1). There were three dimensions to this plurality of legal systems. Native Indonesians, firstly, were not subject to European law. Dutch legal codes were formally introduced for Europeans in 1848 and 1849, and in 1854 Dutch commercial law was extended to cover the 'Foreign Oriental' (mainly ethnic Chinese) part of the population, which was heavily involved in trade. But Dutch law never applied on more than a piecemeal basis to the Indonesians who made up over 95 per cent of the population as a whole. The effect of this 'vertical' dimension of legal pluralism was to reinforce the system of racial castes which Furnivall (1939) euphemistically called the 'plural economy' of the Netherlands Indies. Within the native category, secondly, different ethnic groups and communities were supposed to be governed according to their own diverse laws and customs. Cross-cutting this indigenous diversity, thirdly, Islamic law, based on internationally authoritative interpretations of the Qur'an and Hadith, also received institutional support from the colonial state for inheritance and family law purposes in some predominantly Muslim regions.

Periodically calls were heard in the Netherlands, or among Europeans in Indonesia, for the elimination of this diversity in favour of a unitary legal code along Western lines. Although the motives of those favouring unification varied, a key issue was that the introduction (or imposition) of a Western system of land ownership and registration would allow the permanent acquisition of customary land by non-native parties. Already as things stood, uncultivated land regarded by nearby communities as falling within their customary territory had often been appropriated as 'wilderness' by the state and leased out to European and Chinese planters. At the beginning of the twentieth century customary land rights found a formidable defender in the legal scholar Cornelis van Vollenhoven, professor at Leiden University from 1901 and father of the 'Leiden School' of adat law (*adatrecht*) studies. A cornerstone of adat law, for the Leiden school, was the *beschikkingsrecht* – 'right of allocation' or 'right of avail' – enjoyed by each 'adat law community' (*adatrechtsgemeenschap*) over its territory. Van Vollenhoven knew that fully individualized native land ownership also existed in parts of Indonesia, and in fact both expected and hoped that it would become more common in the future (Burns 2004: 26–8). But like today's international advocates of indigenous rights, in practice he was concerned with the protection of traditional common property against private business and the state.

How successful he and his supporters ultimately were in this endeavour is difficult to say. By the late 1920s, when the adatrecht school finally triumphed over the unificationists in the long debate over colonial legal policy, the Great Depression was in any case about to eliminate much of the demand for land from plantation and other business interests. At an ideological level, nevertheless, the conceptual identification and legal recognition of beschikkingsrecht – usually translated back into Indonesian using the Minangkabau term *hak ulayat* – left an important mark. So too did the Orientalist assumption, implicit or explicit in much of the work of the Leiden School, that law, custom, and society in the Indies were governed, and should continue to be governed, by principles radically different from those informing their counterparts in the West. 'He who turns from the law of the Netherlands to the law of the Dutch East Indies', begins Van Vollenhoven's *magnum opus*, 'enters a new world' (Van Vollenhoven 1918–33, I: 3). Van Vollenhoven himself was a highly empirical scholar (albeit no field researcher) more interested in diversity than in generalization. But as Peter Burns shows in this volume (Chapter 3), he did argue that the customary laws of the 19 *adatrechtskringen* or 'adat law areas' into which he divided Indonesia were in important respects comparable, and reflected a common origin. This made adat attractive to Indonesian nationalists seeking a cultural basis for the political unity which they advocated.

Some of Van Vollenhoven's scholarly disciples, notably his successor as professor of adat law in Leiden, F.D. Holleman, and above all his most influential Indonesian student, Supomo, were later to enhance this attraction by lifting the Orientalism and idealism implicit in Van Vollenhoven's

work to a level of abstraction which made adat fit for incorporation into nationalist ideology. The central theme here was the so-called 'communal trait' (Holleman 1935) in adat, its emphasis on harmony, solidarity, and the 'good of the community as a whole' above the protection of individual rights. Besides underlying the collective land right of hak ulayat, this communal trait was also seen as the reason why adat authorities, unlike judges in Western courts, could issue 'compromise' verdicts in which innocent as well as guilty parties incurred penalties, but all were sufficiently conciliated to ensure that social order was preserved. Again in contradistinction to European law, adat was also identified as a system which did not require a division of powers between judiciary and other organs of government, and in which principles and procedures were only loosely defined, so that the interpretative freedom of judges was great. Initially Van Vollenhoven had favoured some explicit codification of adat, even drafting a 'short adat law code for the whole of the Indies' (*Adatwetboekje voor heel Indië*) designed to be 'binding in matters of civil and commercial law on all natives, regardless of origin or religion' (Van Vollenhoven 1910: 11). But later, as Cees Fasseur emphasizes in this volume (Chapter 2), he came to insist that codification would compromise the status of adat as the 'living law' of communities and constrain its 'harmonious development' over time. Another reason for opposing codification was that the authority of adat was ultimately supposed to rest on cosmic or spiritual foundations rather than on rules of human manufacture (Burns 2004: 114–15).

Adat, then, was spiritual, community-oriented, humane, and protective of poor Indonesian farmers; Western law, and by extension Western culture, was mundane, individualistic, inflexible, and supportive of rich foreign capitalists. This antithesis resonated with other Orientalist ways of thinking popular in European, Eurasian, and Western-educated Indonesian circles in the colony in the early twentieth century: a romantic idealization of Indonesian village life as the 'organic' antithesis of Western urbanism and bureaucracy (Boeke 1934; Haga 1924), and a fascination with 'Asian' mysticism as interpreted by the international Theosophy movement (De Tollenaere 1996). During the Japanese occupation (1942–5), a further complementary influence was imperial propaganda emphasizing the common values and destiny of Asian peoples (Mark 2003). The net result was a powerful current of political thought which identified 'communalism' or 'collectivism', as opposed to Western individualism, as the key to the Indonesian 'national personality' (Bourchier 1996, 1997). Besides invoking adat as its historical foundation, this Orientalism was also associated with such prescriptive concepts as *gotong-royong* or 'mutual aid', *musyawarah dan mufakat* or 'consultation and consensus', and the *asas kekeluargaan* or 'family principle'. It served as what Tania Li in this volume (Chapter 15), following Laura Nader (1991), calls a 'harmony ideology', a means of promoting both national unity and obedience to authority. Under Sukarno's

Guided Democracy (1959–65) and especially Suharto's New Order (1965–98) it found expression in, or was used to justify, policies and institutions designed to disempower or co-opt opposition, suppress conflict, and prevent public discussion of economic inequality or other 'divisive' issues. In a different way, Henley argues in this volume (Chapter 5), the collectivist ideology of adat is also reflected in the support for co-operatives of various kinds which has been a persistent feature of national economic policy since independence.

Given the extent to which adat ultimately became associated with state propaganda, and given that a reaction against the policies of the New Order state is an important force behind recent adat revival initiatives, it might well be assumed that, where adat as an assertion of local rights is concerned, any continuity with colonial adatrecht is illusory. Certainly the masyarakat adat movement, as noted, has separate and much more recent roots in international indigenism, environmentalism, and New Order resource struggles. Nevertheless its leaders have also been influenced by older political thinking on adat (Acciaioli 2001: 88; Li 2000: 159). In part this continuity is a by-product of the state's own legal rhetoric. The Basic Agrarian Law (BAL) of 1960, for instance, confirms that land rights are determined in the first instance by adat law, and although sweeping caveats empower the state to override that law in the name of the higher adat principle that the interests of the community (in this case, the nation) are paramount, the official recognition of adat land rights in the BAL has been a persistent inspiration for activists (Li 2000: 156; Tsing 2002: 122).

Another factor has been the survival of a countercultural subversive version of the national collectivist ideology among Indonesian intellectuals. David Bourchier, in this volume (Chapter 5), cites W.S. Rendra's well-known satirical play *The Struggle of the Naga Tribe* (1979) as evidence that the adat ideology continued to shape even dissident thought under the New Order. Rendra's play deals with an isolated, idyllic community threatened by a rapacious foreign mining company in league with corrupt government officials. First staged in 1975, it predates the advent of the indigenous peoples' movement in Indonesia and deals with adat and liberal capitalism in a way which places it in the romantic tradition of thinking propagated by the Leiden scholars. In academic circles, this kind of ideological continuity is often explicit. When noted Indonesian sociologist Selo Soemardjan was commissioned after the fall of Suharto to examine how the state could restore adat to its rightful role in local government, he did not hesitate to talk in terms of *adatrechtskringen* and other Leiden School concepts (Acciaioli 2001: 97).

During the New Order period indigenous communities were officially referred to as *terasing*, a term which is notoriously hard to translate but corresponds approximately to 'estranged', and suggests temporary separation from mainstream society within a context of common origins and destiny. The New Order's goal with respect to its 'estranged tribes' (*suku-suku terasing*) resembled that of the German state with regard to those German-speaking

groups still outside its borders during the period of national unification in the nineteenth century: it desired, in the words of nationalist historian Von Trietschke, 'even against their will, to restore them to themselves' (Kohn 1944: 582). In rejecting the more or less pejorative suku terasing and masyarakat terasing labels in favour of masyarakat adat, ironically, the indigenous peoples' movement in Indonesia confirmed its essentially Indonesian identity even as it reasserted its distinctiveness within the nation. Adat, after all, was not only a positive rather than a pejorative term; it was also one which linked the movement directly to a core element of the Indonesian national consciousness. Its selection reflected, and at the same time exploited, the fact that for some urban activists 'indigenous people are the embodiment of pure forms of Indonesian cultural heritage unsullied by encounters with colonialism, westernization, and city life' (Li 2000: 156).

Between protection and domination in adat politics

In the colonial period, adat as a political force – a force, that is, within the corridors of colonial power – was initially about protection. Its proponents were concerned, at least in principle, to protect the indigenous weak against the exogenous strong: capitalists who would take away their ancestral land, and bureaucrats who would take away their ancestral customs. Yet after independence, and especially after the breakdown of liberal democracy in 1959, adat was an ideology of control rather than protection. While real adat rights and institutions at the local level were deliberately attacked by nationwide legislation, at the national level the idea of an adat-based 'collectivism' as the source of Indonesia's 'national personality' provided the state with a way of promoting, and justifying the enforcement of, obedience among its citizens. Toward the end of the twentieth century, and especially after the fall of Suharto in 1998, the wheel came in some respects full circle when public voices were once again heard defending local communities against external threats, including the state itself, in the name of adat. In part this endeavour was, as it had been a century earlier, an external and indeed non-Indonesian initiative. A major difference, however, was that the new adat politics involved mobilization as well as protection: members of 'adat communities' took up their own causes in ways that in earlier periods would have elicited swift and sure repression. Today adat politics takes the paradoxical form of a radical conservatism in which marginal, dispossessed people themselves demand justice, not in the name of marginality and dispossession but in the name of ancestry, community, and locality.

On closer inspection, the politics of adat in earlier periods can also be seen as protean and paradoxical. Inherent in the desire of the Leiden adatrecht school to protect Indonesians against capital and the state was an assumption of benevolent power, and with that assumption came a conviction that if necessary the weak should be protected not only against outsiders but also against themselves: specifically, against any temptation they might feel to

dispose of their land or their customs voluntarily. If adat land could not be stolen, neither could it be sold outside the adat law community which controlled it, and in the name of which the colonial state would intervene if necessary to restrict the freedom of its members. Also of concern here was the use of land as collateral for obtaining loans from moneylenders, a practice which communal ownership obstructed and which was seen as a likely route, given the assumed naivety and improvidence of Indonesian farmers as well as their demonstrable poverty, to permanent dispossession. In Malaya, where Malay peasants appreciated the creditworthiness which the British practice of recognizing individual land titles afforded them, many British officials would ironically have preferred to imitate the Dutch system of respecting 'customary tenure' – thanks to which, in their view, the Javanese had 'escaped that fatal gift of absolute proprietary right which has been the ruin of so many tens of thousands of our peasantry in India' (Kratoska 1985: 29).

For better or for worse, then, adat, even in the context of indigenous 'rights', was already an ideology of state control as well as state protection. Custom, in Dutch colonial discourse, was also associated with the reinforcement by the state of internal hierarchy within the 'adat communities' themselves. The practice of ruling via existing leaders, backing up their authority with the power of the state in return for their compliance in using that authority for the state's purposes, was of course not new, and far from unique to Dutch colonial practice. Nevertheless the intellectual study and admiration of adat gave the Dutch, toward the end of their sway in Indonesia, a rationale and a terminology with which to make a particular virtue of indirect rule. Client (or puppet) leaders were cast as *adathoofden* or 'adat chiefs', whose right to rule – and judge according to adat law – rested neither on the state nor in a direct way on the popular will but rather on the authority of custom, a more abstract source of legitimacy located somewhere beyond the fickle preferences of individuals who might be tempted to betray it by endorsing non-customary leaders instead. Such was the confidence of Dutch officials in their own understanding of what Indonesian custom entailed that in extreme cases they even created, by a procedure referred to as *adatontwikkeling* or 'development of custom', new types of 'popular' chief (*volkshoofd*) at levels where none had previously existed. Van Klinken (2004: 111) quotes a contemporary government source which justifies one such endeavour in Kalimantan as 'a government-initiated stimulation of ordered community according to principles known in custom (such as consultation, hierarchical representation)'.

Although the causal link was perhaps not direct, it is no accident that the eventual 'victory' of adat law and the Leiden School over the proponents of legal unification in the late 1920s coincided with the end of the so-called 'ethical' or emancipatory period in Dutch colonial policy (Benda 1966: 604). The rise of Indonesian nationalism and other popular movements, and in

particular the alarm created by a communist-inspired insurrection in 1926, led to the onset of a more repressive political climate in which indigenous hierarchy and tradition were seen as useful bastions against anti-colonial radicalism. It is ironic – and very indicative of the protean, paradoxical character of adat as a political cause – that whereas Van Vollenhoven himself had always seen the promotion of adat law as an integral part of the ethical endeavour, within his own lifetime (he died in 1933) it had become an excuse for abandoning that endeavour.

Mahmood Mamdani (1996) has argued that the policies of 'decentralized despotism' pursued by colonial powers in Africa, where 'tribal chiefs' were given unprecedented power to govern tribal territories through tribal law in the name of tribal communities, is largely responsible for the persistent ethnic conflicts and the undemocratic political cultures seen in much of Africa today. European law and political institutions in colonial Africa were restricted largely to white settler society, which formed a specially privileged 'tribe' of its own that in some areas stayed behind to destabilize national politics long after independence. In Indonesia there was no politically significant European settler community after 1960, and the role of colonial support for adat law and adat chiefs in regional 'ethnogenesis' was less important than in Africa. In Indonesia it was the groups with the most modern (Westernized) educational and political institutions that tended to develop the greatest ethnic solidarity, not the populations of remote areas where adat and its manipulation were more important (Henley 1993: 112; 1996: 146–50). And whereas in Africa the pragmatic abandonment of the rule of (European) law in favour of chiefly rule and customary law is characterized by Mamdani as an act of moral surrender on the part of the colonial powers, in Indonesia the adatrecht project, at least in its early years, was more like a moral crusade. Nevertheless in terms of its emphases on natural hierarchy and ethnic separation, there is no doubt that much influential Dutch and Indonesian thinking on adat was closely akin to that informing African neo-tribalism and apartheid.

Colonial and nationalist thinking on adat was also linked with European fascism. Raden Supomo, Indonesia's most important adat law scholar, was exposed to fascist ideas as a student in the Netherlands (Bourchier 1997: 180) and developed an intellectual admiration for German national socialism. As a member of the Indonesian Independence Preparatory Committee in 1945, he referred approvingly to such ideas as *Blut und Boden* (blood and soil), the *Volksgeist* (national spirit) and the *Führerstaat* (state based on leadership), and argued explicitly against the inclusion of any guarantees of any *Grund- und Freiheitsrechte* – basic human rights and liberties – in the Indonesian constitution. Such rights, he said, were alien to Indonesia's traditional order, in which 'a spirit of co-operation pervaded all groups' and 'adat leaders', being 'spiritually united with their people', were 'committed to forever preserving unity and balance within their communities' (Yamin

1959: 113). Another of Van Vollenhoven's students, J.J. Schrieke, professor of Indies constitutional and administrative law in Leiden from 1934 onward, was also a fascist sympathizer. Schrieke collaborated with the Germans after they occupied the Netherlands in 1940, becoming Secretary-General of the Department of Justice and later Director-General of the State Police. In 1941 he published an article entitled 'Adat law versus jurists' law: new light on an old controversy', in which he argued that the Dutch too should now abandon 'materialistic-individualistic' French (Roman) laws in favour of their own native adat in the form of a Germanic *volksrecht* which recognized no absolute individual rights and sought justice not in law books but in judges who were 'one with the people [*volk*] in spirit' (Schrieke 1941: 434). After the liberation of the country he was sentenced to death, subsequently commuted to life imprisonment, for his wartime crimes (De Jong 1988: 562).

After 1945, not surprisingly, the link between adat-oriented political thinking and fascism was seldom explicitly remembered in Indonesia. But it continued to resonate in such concepts as the 'organic' or 'integralistic' state which some New Order ideologues, inspired by Supomo, promoted in the 1980s (Bourchier 1997; Simanjuntak 1994). In theory an integralistic state would 'harmoniously' incorporate all social groups rather than forming, like its liberal democratic counterpart, an arena and object of political competition. In practice, of course, such a state could only be authoritarian. A resurgence of this kind of antidemocratic ideology at national level, as the result of a backlash against reformasi and its shortcomings (Bourchier 2001: 119–23), remains possible today. And while the Fourth World is obviously a far cry from the Third Reich, several of the contributors to this volume note how recent adat revivalism in the regions has tended to strengthen the hand of local elites. The recombination of New Order desa into larger adat-based nagari in West Sumatra, for instance, has moved the lowest tier of formal government further away from village people. The composition of the new nagari leadership, moreover, is based partly on representation of specific functional groups, including 'adat elders' and 'intellectuals' – that is, on exactly the corporatist model favoured at national level under Sukarno and Suharto – rather than on free and direct election (Von Benda-Beckmann and Von Benda-Beckmann 2001:17, 20–1). At local as well as national level, concludes Tania Li in this volume (Chapter 15: 365–6), appeals to adat as a basis for political legitimacy and organization 'tend to privilege elites, especially senior men, who are empowered to speak on behalf of a presumed whole'.

It is significant that Li refers explicitly to men here. Traditional patterns of gender relations in Indonesia are usually considered relatively egalitarian, and protests by 'adat women' have played a role in the masyarakat adat movement at national level (Acciaioli 2002: 219; Bowen 2003: 59). Locally, nevertheless, the disempowerment of women is often a particularly visible – and for international supporters of the movement, particularly embarrassing

– by-product of its enthusiasm for traditional institutions and ways of thinking. In the Lombok villages where adat revivalism has been strong, for example, fewer women occupy leadership positions now than under the New Order, and requests from 'indigenist' NGOs to reverse this trend are 'consistently turned down by male leaders for being against Lombok's adat' (Avonius 2004: 143). Even in Minangkabau West Sumatra, with its well-known matrifocal kinship patterns, the appointment of female nagari heads is said to be problematic (Von Benda-Beckmann and Von Benda-Beckmann 2001: 17). Other reports express similar concerns with regard to adat-based dispute resolution in the Moluccas and Central Kalimantan (World Bank 2004).

The Achilles' heel of the 'cultural survival' school of thought which idealizes custom and indigeneity is its failure to address the question of 'customary' inequality. And although inequality was often enhanced by colonialism in the name of custom, it should not be imagined that even the stateless societies of Indonesia were egalitarian in structure until colonialism arrived to distort them. One characteristic feature of most Indonesian tribal societies before colonial rule, in fact, was slavery, an institution which colonialism would outlaw, and which even in pre-colonial times was already much less important where indigenous states (as in Java) were strong (Boomgaard 2003: 84, 87–8). In West Sumatra, the descendants of slaves are still recognized and to some extent stigmatized as such today (Biezeveld, this volume, Chapter 9). Charras (2005: 98) is optimistic that as adat revivalism matures and finds its place in relation to other reform movements, 'we will find new *adat* communities that will incorporate "modern" values such as democracy, gender equality, and so on'. Certainly it seems too simple and pejorative to discuss indigenism in Indonesia in terms of 'atavism' (Wee 2002), or to condemn it as an example of the 'reactionary tribalism' (Antonio 2000) spawned by the postmodern assault on Enlightenment values and universal human rights. Nevertheless the prevalence of hierarchy and inequality in the past which adat revivalists idealize must be borne in mind when it comes to assessing the likely consequences of their endeavours today.

To the extent that adat revivalism reinforces political hierarchy, it also tends to promote economic inequality within the 'adat community'. In this volume Biezeveld (Chapter 9) describes how adat leaders in West Sumatra, having supported the revival of nagari land rights on the grounds that the recovery of territory expropriated by the state would benefit the poor and landless within their communities, took to appropriating much of the recovered land themselves when the depreciation of the Indonesian currency after 1997 suddenly enhanced the profitability of agricultural production for export. Just as the New Order had justified private timber concessions on state land in terms of their efficient contribution to national income and development, so Minangkabau village elites now justified their preferential use of nagari land partly by arguing that their access to capital and labour

put them in the best position to use that land productively. In effect, then, the same injustice which the Basic Agrarian Law had made possible at national level in the name of a generic national adat was now made possible at local level by the revival of a specific communal hak ulayat. Elmhirst (2001: 300–1) describes similar developments in Lampung. And of course if local elites, by virtue of 'community' land rights, acquire exclusive access to major sources of income such as timber revenues, they also deny that income to the wider public which might theoretically have benefited had the resources in question remained under national control (Resosudarmo 2003: 240).

Between ethnic rights and ethnic cleansing

If the association (however partial) of adat with inequality and unfreedom is problematic in relation to democracy and human rights, even more problematic, in some ways, is its association with ethnicity, genealogy, and territoriality. Today's international indigenous peoples' movement, for all its technological modernity, its global reach, and its radical credentials, is essentially concerned with *Blut und Boden*. Membership, observes Niessen (2003: 13), is determined not by commitment or commonality of purpose, but by accident of birth: 'it is mostly blood and place of parentage that determine who belongs and who does not'. In the Indonesian context, as noted, the interpretation of indigenous peoples as masyarakat adat rather than penduduk asli actually implies rather less emphasis on blood and soil, and more on tradition and community, than is usual in the international movement. Traditional systems of community organization in Indonesia, as Warren (Chapter 8) and Erb (Chapter 11) note in this volume with respect to Bali and Flores respectively, generally did allow the incorporation of strangers by means of ritual, acceptance of community duties, and various forms of 'fictive kinship'. The modern politics of adat, nevertheless, is inevitably a 'politics of difference' (Wilmsen and McAllister 1996): the difference between insiders – whether to the 'adat community', or to the Indonesian nation – and outsiders.

One important dimension of the current adat revival at local level, then, is always the exclusion of the outsider, even if that outsider is a poverty-stricken migrant from another part of Indonesia. At its worst the movement has been about boundaries, chauvinism, and xenophobia, and it has ignored the rights, destroyed the livelihoods, and indeed taken the lives of innocent people unlucky enough to be perceived as outsiders in the wrong place at the wrong time. In Kalimantan, where indigenous Dayaks have participated in a series of pogroms against migrant Madurese communities, acts of horrific violence have been carried out – or at least justified – in the name of adat. Bloodletting rocked West Kalimantan in early 1997 and again in early 1999, when tens of thousands of Madurese settlers were expelled from the Sambas district in the province's northwestern corner. In mid-2001 similar riots took place in Central Kalimantan, leading to an exodus of more

than a hundred thousand Madurese. The scale of these events was such as to call into question the whole notion of a single Indonesian citizenship conveying residence and other rights throughout the nation. Adat revivalism in Kalimantan, moreover, seems to have derived additional momentum from the violence, which has strengthened communal bonds and polarized ethnic identities, and indeed from the slaughter of outsiders itself, which has proved the lethal potency of adat as a rallying-point. In this region, in other words, violence and empowerment have fed off each other as violence has become an integral part of the revival movement (Davidson 2003).

A further disturbing aspect of the Kalimantan violence is the role played in it by adat-oriented and ethnic NGOs. The 2001 Central Kalimantan riots were partly the result of an orchestrated anti-Madurese campaign by a Dayak NGO, the Lembaga Musyawarah Masyarakat Dayak dan Daerah Kalimantan Tengah (LMMDDKT), led by an intellectual and former university rector who aimed to become provincial governor (ICG 2001a; Van Klinken 2002). NGO leaders in West Kalimantan, as Davidson documents in this volume (Chapter 10), have written a passionate plea in defence of the anti-migrant riots, justifying the violence in terms of both Dayak marginalization and adat law. Equally troubling is the conspicuous silence of the transnational advocacy networks that support Indonesia's adat movements. To draw attention to the role of Dayaks as perpetrators of ethnic cleansing, even by condemning it, would be to cast dangerous doubt on the politically valuable and for many activists almost sacrosanct image of indigenous peoples as 'victims of violence perpetrated by vicious regimes, corporations, or settlers intent on grabbing their land' (Li 2002b: 361).

A similar potential for exclusion and violence, of course, is present also in nationalism, the basis on which the exclusionary claims of indigenism are most often denied. Nevertheless there is a sense in which indigenism offers fewer prospects than nationalism for the ultimate resolution of the problems which give rise to it. Nationalism, according to the classic formulation by Anthony Smith (1986), comes in two basic variants: 'civic-territorial' ('civic' for short) and 'ethnic-genealogical' (or simply, 'ethnic'). In the former, for which the American and French revolutions stand as models, the guiding ideal is to uphold, within the territory of a given state, human rights which are in principle universal. In the latter, conventionally exemplified by the German and Italian nationalist movements, the ideal is to promote the unity and interests of a specific ethnic nation. Except in the special case of fascism, however, in practice even 'ethnic' nationalisms also incorporate a 'civic' element in that they do not attempt to allocate citizenship and other rights purely on a genealogical basis. But can there be a 'civic' variant of indigenism, an ideology that in Smith's terms can best be described as 'ethnic-territorial'? Ethnicities and territories seldom neatly coincide, and to claim a land in the name of an indigenous category (Dayaks, for instance) from which a large part of its population (the descendants of Madurese

migrants, for instance) will always be excluded is bound to be a provocative undertaking.

At a local level traditional non-state institutions, even in revived and modified forms, can and do help to maintain social order and integration. The recent revival of adat mechanisms for resolving disputes, punishing crimes, and compensating victims, for example, has enjoyed some success in relatively closed community contexts. Acciaioli (2002: 221–6) describes how in upland Central Sulawesi in 2001 a case of assault, which would previously have been dealt with unpredictable consequences by the police, was resolved to general satisfaction by local adat leaders who imposed a traditional fine. In this case the litigants came from villages in neighbouring valleys which were linked with each other by ties of kinship and culture. Attempts to halt ethnic violence in Sulawesi (and elsewhere) by means of adat reconciliation ceremonies, by contrast, have seldom led to more than a temporary respite. One obvious reason for this failure is that in the absence of a shared cultural background, success would tend to require that one party recognize the adat of the other as a framework for arbitration that transcends the interests of both, whereas in fact the territorial claims made by the indigenous party in the name of its own adat are themselves at the heart of the conflict (Acciaioli 2001: 103). In pre-colonial times some traditional royal polities, as noted, incorporated diverse cultural communities, and indeed their legitimacy was based partly on their function as neutral mediators and adjudicators in conflicts between the groups under their rule (Henley 2002, 2004). The disempowerment of such polities during and after the colonial period, however, robbed them of the prestige and the force of arms on which their ability to keep the peace also depended. In South Sulawesi, an adat peace pact brokered in 1998 by what remained of the royal house of Luwu was of short duration (Roth 2002: 208).

The development of 'social capital', in the sense of habits of mutual trust and cooperation conducive to efficient political and economic organization (Putnam 1993, 2000), tends to be promoted by traditional and neo-traditional institutions at a local level, but is often impeded by the same institutions on a larger scale. Social capital, according to Warren in this volume (Chapter 8: 179), 'is both product and premise of village activity in Bali', where a rich variety of ritual, artistic, agricultural (irrigation) and rotating credit associations, as well as adat councils at hamlet and village level which are distinct from their bureaucratic counterparts, provide for the intensive mutual interaction and surveillance which generates trust. This trust, in turn, has assisted in the creation of new, non-traditional institutions such as Bali's unusually successful credit co-operatives. In West Kalimantan, comparably, the establishment of credit unions has been an important aspect of indigenist Dayak NGO activity (Davidson, this volume, Chapter 10). Under favourable circumstances, the social control which adat entails can also be used to exert direct influence on state politics. In Bali in 1997 a

hotel construction project involving powerful political interests was for the first time halted, not by demonstrations or the courts but by a direct threat to the governor of Bali by the community responsible for the sacred site of Padanggalak where the hotel was to be built (Warren, this volume, Chapter 8). The governor, fortuitously, came from Padanggalak himself, and what the community threatened him with was the adat sanction of *kasepékan*: 'excommunication' or 'expulsion', which would have denied him, among other things, the right to be buried in the village cemetery.

The fact that the success of adat sanctions depended on the coincidence that the governor was born in the affected village, on the other hand, highlights 'the limits of these empowerments that are so locally focused' (Warren, this volume, Chapter 8: 191, n. 4). And the dark side of the kind of social capital that emerges from one particular social and cultural milieu, yet exists in an environment of interethnic tension, is well illustrated by the recent history of the pecalang or 'adat police' in Bali. As noted, the transformation of the pecalang from temple guards and local strongmen into an island-wide security force had to do in the first place with public concern over rising criminality following the end of the New Order. In 2001, the responsibility of the pecalang for 'security and the maintenance of order within the village' was officially confirmed by provincial government ordinance (Couteau 2002: 241). Since, however, crime was associated with immigration, and adat with Balinese resistance to disruptive outside forces, the primary role of the pecalang quickly became that of deterring migration by imposing fees and other burdens on non-Balinese residents. Inevitably, this led to further exacerbation of ethnic tensions and increased potential for conflict (ICG 2003: 2–11). Warren (Chapter 8: 200, n. 59) describes acts of violence against migrants carried out by people conspicuously dressed in 'adat clothing'.

By creating social capital, and by inspiring societal challenges to the dominance of the state, adat and adat revivalism would appear to contribute strongly to 'civil society' in both of the senses in which this hopeful term is now widely used in Asian contexts (Lee 2004; Pye 1999). Civil society, however, also implies *civility* in the Enlightenment sense of toleration and restraint with respect to differences in culture, opinion, and faith (Kingwell 1995). In situations of cultural diversity and ethnic tension what is needed is not what Putnam (2000) calls the 'bonding' form of social capital, which adat and adat-based movements can certainly provide, but rather the 'bridging' form which makes possible co-operation between people of different ethnic origin. In Indonesia, historically speaking, the most effective bridge between local cultures has arguably been Islam, which as it spread helped diverse peoples to live, trade, and make politics together in multiethnic contexts (Dobbin 1980; Reid 1988, 1993), and which some would argue still plays the kind of civilizing role in Indonesian political life which Weber and De Tocqueville attributed to Christian churches in nineteenth-century America (Van Bruinessen 2003; Hefner 2000). Certainly the legalistic emphasis in Islam has provided Indonesia with a judicial framework – reflected in the

Arabic origin of such terms as *hak* (rights), *hakim* (judge), *adil* (just), and indeed *adat* (custom) – which transcends the diversity of adat without being (fully) dependent on the coercive power of a colonial or national state. Islam, however, unifies by conversion – that is, by changing at least part of people's culture and identity – and its law is essentially only for Muslims. The current adat revival, not coincidentally, is concentrated either in areas where the progress of Islam is blocked by Christianity or Hinduism, or in areas where Islamic conversion has taken place but pre-Islamic elements remain unusually important in social life.

It is conventional to assume that colonial interest in adat law reflected not only a reluctance to extend the benefits of European law to the Indonesian population but also an active antipathy to the alternative of Islamic law and jurisprudence. For Bowen (2003: 46), for instance, the 'science' of adatrecht was developed by the Dutch partly 'to keep Islamic law at bay'. The importance of containing Islam as a motive for the colonial promotion of adat law is in fact debatable. In relation to rebellious Aceh Van Vollenhoven did warn, as Lev (1985: 66) points out, that any 'destruction of adat law' would pave the way for 'social chaos and Islam', but otherwise even his most polemical writings seldom mention this aspect of adatrecht politics. Considering the general outspokenness of Dutch colonial officials on policy issues, the documentary evidence cited by scholars like Van Dijk (2005) to support the 'containment' view is slight enough to put that view in the category of conspiracy theories.

A clear anti-Islamic element, by contrast, is certainly present in some of those contemporary cases of adat revivalism where non-Muslim groups involved in conflict with Muslims have seized upon adat partly as a symbol of identity and solidarity. In the Poso conflict, which essentially pits indigenous Pamona Christians against migrant Bugis Muslims, the politics of adat are hopelessly intertwined with those of religion (Li, this volume, Chapter 15). Adat in Bali, as one of Warren's Balinese informants flatly told her, is 'synergetic' (*sinergis*) with local Hinduism and 'can't be mixed with Islam' (this volume, Chapter 8: 176). Thefts from temples, and the building of mosques, accordingly, have become explosive issues on the island (Couteau 2002: 237, 240). And in Lombok, where the Sasak population has conventionally been classified according to the depth of its Islamic commitment into 'orthodox' Waktu Lima and 'syncretic' Wetu Telu components, this distinction now shows signs of resolving, under the twin pressures of adat revivalism and Islamic reformism, into a starker antithesis between *agama* (religion) and adat as ways of life (Avonius 2004: 36).

Between escapism and pragmatism

In almost all contexts, talking about adat seems to involve an element of wishful thinking. Even in its most fundamental form, as a set of norms

governing social life in rural communities, it tends to reflect the way things 'ought' to be done more than the way they actually are done in everyday practice. Geertz (1983: 211), who observed adat rules and procedures operating in villages in several parts of Indonesia from the 1950s to the 1970s, described them as specifying 'an ideal state of affairs' which is 'no more expected to obtain in fact than are others elsewhere'. If for members of village communities the contrast between ideal and actuality is usually clear, city-dwellers looking outwards at the countryside or backwards in time are more likely to confuse the two, leading to a romanticized vision of traditional life. The cultural commentator Sutan Takdir Alisjahbana (1968: 6) wrote that, if in Indonesia a 'man of the modern world' praises adat, his adulation very often reflects 'a confused mind' and 'the nostalgia of a tired man for a more peaceful archaic society'. Historical research, where it is feasible, tends to reveal conflict and instability even in the most apparently idyllic agrarian settings (Bigalke 2005; Schulte Nordholt 1996), confirming that the idea of adat as a guarantee of peace and harmony is misleading not only as a prescription for the future but also as an interpretation of the past.

Societies, and individuals, are more likely to idealize what they lack than what they already have in any abundance. In this perspective the great overt value placed in Indonesia on order, unity and co-operation, now as well as in the past, can be understood partly as an oblique confirmation that disorder, individualism and distrust form persistent problems to be overcome. Henley, in this volume (Chapter 4), argues that, because of the paradoxical inverse relationship between ideals and experience, the century-old co-operative movement in Indonesia has shown a perverse tendency to feed on its own repeated failures, which only reinforce the unrealized ideals on which it is based. But the Utopian enthusiasm for co-operatives also rests on the specific association of co-operation and collectivism with the Indonesian national character, with adat, and with the idealistic ways in which adat was interpreted by colonial scholars and those they influenced. What Bourchier (this volume, Chapter 5) refers to as the 'romance of adat' has provided inspiration not only for the current wave of local traditionalism but also for earlier attempts to make Indonesian institutions more congruent with Indonesian culture and history.

Part of the appeal of adat, not least for intellectuals not brought up with it, has always been aesthetic, and in many cases the advocacy of a return to adat has involved elements of mysticism and escapism. In 1932, during one of his two brief visits to Indonesia, Van Vollenhoven himself gave a lecture entitled 'The poetry in Indies law' (*De poëzie in het Indisch recht*) at the School of Law (Rechtshogeschool) in Batavia. Taking his inspiration explicitly from German folklorist Jacob Grimm, who in 1815 wrote an essay on 'The poetry in the law', he spoke of aspects of adatrecht 'which are not purely useful, profitable, practical, but rather originate in a higher sphere, affect the emotions, and give rise to feelings of attachment, respect, and

dedication' (Van Vollenhoven 1934: 119). By this he meant not dedication to the pursuit of justice as such but rather a conviction that traditional rules of conduct are inspired, and ultimately enforced, by an unseen cosmic order. A related aspect of the Dutch romanticization of adat, as noted, was a sort of legal Orientalism: Van Vollenhoven enjoyed telling his students – including, pointedly, the Indonesians among them – that they needed to 'strip off their white skins' and see adatrecht 'through native eyes' if they were to understand it properly (Vogel 1992: 141).

In recent years adat revivalism, largely via the masyarakat adat movement and its connections with international indigenous rights advocacy, has become a vehicle for environmentalist as well as collectivist ideals. In the 1990s, many experts came to see the solution to environmental problems as lying partly in decentralized forms of natural resource management by local communities drawing on local traditions (Ghai 1994; Ghai and Vivian 1992). This prescription derived additional momentum from the growing popularity in the developed world of ideas about the inherited environmental (and other) wisdom of tribal peoples (Maybury-Lewis 1992). Both the idea of 'community-based natural resource management' and the stereotype of the 'ecologically noble savage' (Redford 1991) have been subject to much critical interrogation, not least by Southeast Asianists (Ellen 1986; Li 2002). On the one hand there is no doubt that tribal peoples often possess rich environmental knowledge, and that in the past they have often managed forest, soils, game, and other resources sustainably for long periods. Nor is there much doubt that this achievement had to do partly with adaptive traditional institutions from which it is still possible to learn (Berkes and Folke 1998). The emergence and reproduction of such institutions, on the other hand, is predicated on circumstances in which small and relatively homogenous groups depend continuously and predictably on specific renewable resources for their livelihood (Agrawal 2001). When economic, demographic, and technological conditions change, and when social conditions are affected by trade, government, and migration, local patterns of resource management may change too – often by deliberate local choice – so that sustainability is no longer guaranteed.

The economic interests of indigenous communities, to complicate matters further, may be directly at odds with those of state-based nature conservation. A significant proportion of post-Suharto adat land claims targeted not plantation or logging concessions, but national parks and other protected areas, found mostly in remote regions which were also the homelands of masyarakat adat. Examples of the resulting controversies and conflicts are described in this volume by Erb (Chapter 11), Sangaji (Chapter 14), and Li (Chapter 15). The exclusionary 'fortress conservation' approach to nature protection which had prevailed under the New Order was now denounced by some activists as 'eco-fascism', and conservationists came under pressure to accommodate indigenous claims to protected land and resources –

especially when such claims were accompanied by promises to manage the resources in question sustainably.

In 1999 the manager of the Lore Lindu national park in Central Sulawesi, in an act of what Li (this volume, Chapter 15) describes as 'eco-populism', recognized the right of several local communities to use adat land located within the park for agriculture. The rationale for this concession, at least ostensibly, was that, as traditional swidden cultivators with a largely subsistence-oriented economy, they would cause little or no permanent damage to the forest – an assertion which was supported by their NGO allies. Having secured access to their community land, however, many of the villagers turned to planting it with permanent stands of the lucrative export crop cocoa – and of course promptly 'fell from ecological grace', as Li (Chapter 15: 350) puts it, both with the park management and with international observers. In Kalimantan, likewise, some indigenous groups – whether out of opportunism or because they perceive that in the long run they are powerless to stop the destruction and so might as well have some benefit from it – have grasped new chances provided by decentralization to profit from the commercial logging of their forests (Casson and Obidzinsky 2002: 2141; ICG 2001b: 12). The alliance between indigenism and environmentalism, as Keebet von Benda-Beckmann (1997) has observed, is a tricky one which may well become a Trojan horse for indigenous communities when they fail to live up to their assigned roles as stewards of the environment, and enchantment turns to disenchantment among their international supporters. 'Conservation should be a shared burden', concludes Li in this volume (Chapter 15: 365), 'not one borne disproportionately by marginalized populations'.

But if some of the ideals associated with it are unrealistic to the point of escapism, adat and its current resurgence remain matters of real and pragmatic concern for many Indonesians. Members of 'adat communities', even according to the state's conservative 'tribal' definition (*komunitas adat terpencil*), already number over a million (Duncan 2004: 93), while the coverage of AMAN membership is much greater, and the scope of the unorganized resurgence of adat as an aspect of ethnic identity wider again. Conflicts – violent and otherwise – with masyarakat adat groups have affected hundreds of thousands of migrants and descendants of migrants, and the issue of who controls the resource-rich territory around which many of those conflicts revolve, and on what authority, is of great importance for Indonesia's future. So too is the nature of the adat-based claim to preferential rights on the basis of historical precedence, cultural identity, and territorial possession, a claim which challenges the principles of equality and legal impartiality on which Indonesian (and most other modern) citizenship, at least in theory, is based.

Whether or not they have come to define their identity in terms of adat, a great many Indonesians still live lives which are influenced by adat in the

straightforward sense of customary institutions. One illustration of the tenacity of such institutions is the fact that, outside Java, locally respected community land rights – forms of Van Vollenhoven's 'right of avail' (beschikkingsrecht, hak ulayat) – remain widespread (just how widespread is not known) despite decades of hostile neglect on the part of the legislature (Biezeveld 2002: 81–3, 123–41; McCarthy 2005: 72–7). Another is the successful revival in several regions of traditional units of local governance (such as the Minangkabau nagari) which have been cut off from state support for a generation. In so far as Van Vollenhoven and his colleagues tended to draw an artificially sharp distinction between legal and non-legal aspects of adat, and in so far as a discrete legal sphere comes into being only when the law is consistently enforced by a sovereign state, it may be right to follow the anthropologist J.P.B. de Josselin de Jong (1948) in dismissing 'customary law' as 'a confusing fiction'. But the fact remains that some local communities – notably the Balinese villages and hamlets described by Warren (1993, 2005) – do usually manage to settle internal disputes and maintain, indeed enforce, fairly well-defined rules of behaviour among their members without help from the state apparatus. In the terminology used by Burns (Chapter 3) in the present volume, this qualifies them as 'nascent' states themselves – a characterization which appears less remarkable in the present era of decentralization than it would have done before 1998, and which points to a crucial practical advantage of adat as a way of maintaining local order at a time when the old, central state is weak.

Where adat works as a way of resolving conflicts, or indeed managing resources, it usually involves hierarchy and the exercise of power as well as the application of norms and values. In pre-colonial Indonesia it was often the authority of local aristocrats, exercised explicitly in the name of the community as a whole, which protected traditional forest reserves and other valuable natural resources from destruction (Eghenter 2003; Henley 2005). As in any hierarchical polity, such authority always brought with it the possibility of abuse of power. Dutch adatrecht scholars, despite their tendency to idealize, recognized the danger of 'personification' (*verpersoonlijking*) of the community right of avail in an overly powerful adat chief who would avail only himself, rather than his community, of the resources under his control (Ter Haar 1939: 69). Traditionally this problem was overcome partly by virtue of the small size of the typical polity, which ensured that its leaders remained under some degree of direct social control. The fact that the scope of adat jurisdictions was so narrow, however, is one reason why today, adat cannot normally function as a sovereign authority for adjudicating disputes among parties of different origin. And in modern Indonesia only a rapidly shrinking proportion of disputes, especially serious ones, is conducted between parties who are inclined to obey the same local rules of conduct and the same traditional authorities. The creation of an effective nationwide rule of law, capable of transcending ethnic boundaries, depends on the establishment of a more sophisticated kind of social contract between the state and its citizens.

This book and its messages

The fourteen further chapters of this book are written by contributors ranging from colonial historians to indigenous rights activists, and look at the politics of adat in contexts ranging from co-operative societies to ethnic violence. Chapters 2–5 all deal with history, and with the different ways in which history has shaped current conflicts and controversies involving adat. Chapters 2 and 3, by Cees Fasseur and Peter Burns, are about colonial adat law scholarship and policy, Chapters 4 and 5, by David Henley and David Bourchier, about the continuities (and discontinuities) between colonial and post-colonial policies and ideologies relating to adat. Chapter 6, by Daniel Fitzpatrick, looks in a modern context at the relationship between land tenure, custom, and state law, the same issue which in colonial times formed the primary focus of political debates over adat.

The remaining nine chapters all deal with aspects of the recent revival of adat as a political force: Chapter 7 (Gerry van Klinken) with the nationwide 'return of the sultans', Chapters 8 and 9 (Carol Warren, Renske Biezeveld) with adat revivalism among the large, proud, and culturally distinctive Balinese and Minangkabau peoples, and Chapters 10–15 with marginalized masyarakat adat groups corresponding more clearly to the international stereotype of 'indigenous peoples'. Here Jamie Davidson (Chapter 10) deals with adat revivalism and ethnic violence in Kalimantan, Maribeth Erb (Chapter 11) with post-tribal Catholics on Flores, and Sandra Moniaga (Chapter 12) with the history of the pan-Indonesian masyarakat adat movement. The final three chapters (13–15), by Greg Acciaioli, Arianto Sangaji, and Tania Li, all share a common geographical focus in the province of Central Sulawesi, and taken together they provide a rounded portrait of how adat and the masyarakat adat issue figure in the contemporary political life of one region where indigeneity and tradition are particularly important. Tania Li's chapter, while firmly anchored in local ethnography, also sums up many of the key general issues raised in this book, and forms an appropriate conclusion to the volume.

Our collection can make no pretence to comprehensive coverage, either in regional or in thematic terms, of the politics of tradition in Indonesia. Its geographical selectivity, in part, simply reflects the fact that adat revivalism is more important today in some regions than in others – hence, for instance, the lack of a chapter dealing specifically with Java, where the post-New Order reorientation of local politics and identities has mostly taken different forms. The role of adat in contemporary Papuan politics and nationalism, on the other hand, would certainly have merited a separate chapter in principle, although some compensatory references to it have been made in this introduction. In thematic terms the most important omission is that of a chapter on the relationship between adat and Islam, and between customary and Islamic law. Here again some of the major issues have been outlined above; elsewhere in the volume, Biezeveld (Chapter 9) provides

more extensive coverage in a West Sumatran context. A full treatment of the topic at the national level, however, lies in the future and probably demands a book of its own. For the moment, readers are referred in the first place to the existing studies by Bowen (2003) and Avonius (2004) on Islam, tradition, and modernity among the Gayo of Aceh and the Sasak of Lombok respectively.

Taken as a whole the book, as noted, addresses two overarching questions. First: what are the origins of today's adat revivalism in Indonesia? What historical factors have conditioned it, and why has it blossomed at this time and in its present contexts and forms? Second: to what extent is the adat revival a constructive contribution to Indonesia's new political pluralism, and to what extent a divisive, reactionary force? What are its implications for the development of democracy, human rights, civility and political stability in the future?

While the conclusions offered by individual contributors on both issues vary considerably, two areas of consensus also seem to emerge. In relation to the question of origins, firstly, most contributors would agree that the current interest in adat is not just a national offshoot of international discourses on indigenous rights; nor are the forms it has taken fully explained by the pressures experienced by the groups concerned during and after the New Order period. The revival also reflects a specifically Indonesian ideological tradition in which land, community and custom – rather than, say, blood, language, class, or the law of the state – provide the normative reference points for political struggles.

The second area of agreement concerns customary land tenure in relation to the benefits and potential benefits of the adat revival. Millions of Indonesians access the land and natural resources on which they depend through customary rights which are locally recognized and respected, but undocumented and unrecognized according to state law. This situation has legitimated the appropriation of land, the forced removal of populations, and the destruction of livelihoods by the state, its agents, and their corporate allies. Firm legal acknowledgement of customary land rights, together with restitution of already alienated adat land or proper compensation for its former owners and users, are a matters of simple justice. They are also obvious preconditions for the development of a healthy relationship between society and state, and particularly between society and the law of the state, in the future. The problem of insecure land tenure, moreover, is not limited to remote masyarakat adat groups, or even to areas where collective and community land tenure is important. Most of the individual and household landholdings in Indonesia, urban as well as rural, are also unregistered.

Fitzpatrick (Chapter 6: 143, 144) recommends a concrete way of remedying this situation: by 'allowing limited rights to arise through automatic operation of law from the fact of occupation itself', and recording land

rights and transactions 'through simple decentralized processes' rather than insisting on the slow and expensive procedure of central land registration. A more favourable pathway of development with respect to land law, Fitzpatrick argues, has been followed in Malaysia, where 'village-based systems for recording possession, and the introduction of standard form documentation for recording land transactions, have played an important role in producing a system with markedly less conflict and insecurity' (Chapter 6: 135). In British Malaya, state-backed individual rights to peasant smallholdings were established from 1897 onward by entry in a local Mukim (sub-district) Register, and in 1926 these rights were converted into unambiguous legal titles of possession (Kratoska 1985: 25–6).

Exaggerated notions of the incompatibility of state law and 'adat law', Fitzpatrick points out, have in the past distracted attention from practical ways to reconcile the two. His own prescription, however, is incomplete in that it does not specifically address the question of communal adat tenure, which as we have seen remains common outside Java, and which presents special problems for registration. Legislating for community land tenure inevitably involves prescribing just how membership of the entitled community, in the future as well as in the present, is to be determined. State-backed community tenure may obstruct the evolution toward private ownership which automatically tends to occur in communal systems when population densities or land values rise (Otsuka and Place 2001). As noted, it may also facilitate abuses of power on the part of community leaders, and it inevitably puts community members at a disadvantage over freeholders when selling and leasing land or obtaining credit – an economic handicap which came to the fore in peninsular Malaysia during an experiment with 'Malay reservations' in the 1930s (Kratoska 1983: 168). Nevertheless communal tenure has been provided for in recent years by national legislation in other countries, including the Philippines and Papua New Guinea, and Haverfield (1999: 64–6) suggests that hak ulayat could be registered in Indonesia in the form of a 'community trust'. In this volume, likewise, Moniaga (Chapter 11) emphasizes the need for a genuine legal pluralism that acknowledges the real diversity of existing land tenure arrangements.

Fitzpatrick's call for an 'evolutionary' blending of state and customary land law echoes a more general suggestion by Burns (Chapter 3) that the Indonesian Republic should follow the advice of one of the most prominent colonial adatrecht experts after Van Vollenhoven, Barend ter Haar (1939: 237), by adopting a principle of legal precedent, akin to the *stare decisis* of Anglo-Saxon common law systems, as a practical way of transforming adat-as-custom into adat-as-law. Critics of adat law in Indonesia often fail to appreciate that there are many other countries, including rich countries, in which uncodified rules derived ultimately from popular tradition still form the basis of state law. Again, however, in a multiethnic setting there remains the classic problem of what to do with customs which apply, as so

many do, only to people of a particular origin or faith and which, as in the case of communal land rights, automatically privilege certain groups over other citizens of the nation-state.

When it comes to managing acute conflicts and ameliorating chronic inequality between specific well-defined groups, the incorporation of systematic ethnic discrimination into state law and policy is not something which can be rejected out of hand on ethical grounds. In Malaysia, positive discrimination for Malays in business and education has played a major role in containing the potentially explosive tensions between indigenous (*pribumi*) and ethnic Chinese communities over the last 35 years – and this without obstructing spectacular economic growth and improvements in living standards for both groups. As Indonesia struggles to institutionalize a system of government which respects individual human rights, demands for collective rights and entitlements undoubtedly clash with this priority. But if something akin to the Malaysian system of indigenous entitlement is what it would take to allow Dayaks and migrants to coexist for the next 35 years in Kalimantan, then the sacrifice of (so far always highly abstract) principles of equal citizenship might well be judged worthwhile.

A more serious limitation of legal 'solutions' to problems in which adat plays a role is that in practice these tend to be political and organizational problems rather than matters of misconceived or inadequate legislation. The prominence of adat-based movements and the resurgence of traditional political institutions at the local level since 1998 are due in part to the sheer weakness of central government authority. Under these circumstances national legislation is increasingly irrelevant to local developments, and adat has been caught up a profusion of local conflict and contestation which for the moment is largely beyond legal or institutional control. Even when the central government was strong, lack of legislation to protect customary rights was far from being the central shortcoming of the Indonesian legal system, which was (and remains) notorious for its general inefficiency, corruption, and lack of political independence.

With respect to the aspects of contemporary local adat politics which are not directly connected with land law and land rights but rather reflect the general 'communitarian turn' (Van Klinken, Chapter 7) in Indonesian politics since the end of the New Order, many of the contributors to this volume are strikingly critical and sceptical. Van Klinken, while conceding that the sultan of Yogyakarta has long played an 'integrative' role in the management of conflicts within his limited sphere of influence, is reluctant to see any other constructive or legitimate political use for sultanates and royal polities in Indonesia's future. Even the chapters on local adat communities portray attempts to make adat an enduring basis for political organization as problematic, bringing dangers of ethnic conflict, enhancement and legitimation of inequality, and denial of individual rights and freedoms. Li, for instance, laments the use of adat as a 'tool of ethno-politics', and

observes that because adat – like an ecosystem – is regarded as at once natural and fragile, its protection can all too readily be used as a pretext for the appropriation and use of power (Chapter 15). The history of how adat has been deployed in state ideology during the twentieth century gives additional pause for thought here (Bourchier, Chapter 5), and events in Kalimantan show that the tendency of adat revivalism to promote ethnic conflict is far from theoretical (Davidson, Chapter 10).

The national masyarakat adat movement is praised in this book for contributing to the development of civil society, for supporting local land rights, and for bringing pride and a political voice to a marginalized and maltreated section of the Indonesian population. But even contributors close to the movement (Acciaioli, Sangaji) express the hope that it will now consolidate alliances with organizations championing the interests of other underprivileged social groups: in other words, that it will orient itself increasingly toward issues of class rather than of ethnicity. The urban and intellectual leaders of the movement, at least, show signs of heeding this advice, which has become less impractical now that reformasi has reduced the need to cloak leftist social radicalism in cultural and environmental garb. Some activists have long argued that any group of people who 'manage their land and resources in an orderly way', regardless of their history or culture, can qualify as an adat community (Li 2000: 156), and it is possible that land issues will provide common ground for an agrarian alliance linking indigenism with the farmer (*petani*) organizations which have emerged in Java and Sumatra (Lucas and Warren 2000, 2003).

There are other signs, too, that the recent levels of political activity surrounding adat issues and institutions will not be sustained. In West Sumatra, as Biezeveld (Chapter 9) observes, enthusiasm for adat solutions quickly waned once the 'return to the nagari' was a reality, shortcomings and all, rather than an aspiration founded on ethnic pride and (often exaggerated) hopes of economic advantage. Davidson (Chapter 10: 237) draws attention to a fascinating passage, in the 1999 *Kalimantan Review* article defending Dayak violence against Madurese settlers, which states that Dayaks have no alternative but to resort to adat-sanctioned violence 'given the lack of recourse to substantive law or international conventions to support their rights'. If 'substantive law' had been available as a means of obtaining justice, in other words, neither violence nor the appeal to 'adat law' might have been necessary. Few Indonesians today are optimistic about the practical prospects of establishing a national rule of law (*negara hukum*) in their country, and few historians would claim to know exactly how the same thing has been achieved in other countries in the past. But if William Riker, following Rousseau and approvingly quoted by Douglass North in his classic *Institutions, Institutional Change and Economic Performance* (1990: 60), is right to argue that what really matters in this process is 'the law that is written in the hearts of the people', then it must surely be significant that even the most

virulent supporters of hukum adat come close to conceding that the revival of adat is desirable only by default, for want of something better, maybe even: for the time being, until real law is in a position to take over.

Whatever the political future of adat in Indonesia, the changes already wrought in its name have been great. The new pluriformity in village governance will not easily be undone, nor the bloody triumphs of indigenous sovereignty in Kalimantan forgotten, nor the new-found political voices of the 'adat communities' silenced. Indonesia's adat revival also offers some lessons for those interested in processes of democratization more generally. It shows that in urbanizing, industrializing countries, protest movements among rural populations left behind or victimized by development can still make their mark, with international help, on national politics. It underlines the fact that rapid devolution of power in a previously centralized state can lead to exclusion, conflict, and even authoritarianism at the local level. It confirms the salience of what Yashar (1999), in her exploration of democratization in Latin America, calls the 'post-liberal challenge': the dilemma of grounding individual rights in a governmental framework that at the same time accommodates group interests and local diversity. And it shows that in times of change and uncertainty a nation's history, in the form of institutions, ideas, and ideologies that have seemed all but forgotten, can come back to haunt it in dramatic and unexpected ways.

References

Acciaioli, G. (1985) 'Culture as art: from practice to spectacle in Indonesia', *Canberra Anthropology*, 8(1/2): 148–74.

—— (1997) 'What's in a name? Appropriating idioms in the South Sulawesi rice intensification program', in J. Schiller and B. Martin-Schiller (eds) *Imagining Indonesia: cultural politics and political culture*, Athens, Ohio: Ohio University Center for International Studies.

—— (2001) 'Grounds of conflict, idioms of harmony: custom, religion, and nationalism in violence avoidance at the Lindu Plain, Central Sulawesi', *Indonesia*, 72: 81–112.

—— (2002) 'Re-empowering "the art of the elders": the revitalization of *adat* among the To Lindu people of Central Sulawesi and throughout contemporary Indonesia', in M. Sakai (ed.) *Beyond Jakarta: regional autonomy and local societies in Indonesia*, Adelaide: Crawford House.

Adriani, N. and Kruyt, A.C. (1950–1) *De Bare'e Sprekende Toradjas van Midden-Celebes (De Oost-Toradjas)*, 4 volumes, Amsterdam: Noord-Hollandsche Uitgevers Maatschappij.

Agrawal, A. (2001) 'Common property institutions and sustainable governance of resources', *World Development*, 29: 1649–72.

Alisjahbana, S.T. (1968) 'Customary law and modernization in Indonesia', in D.C. Buxbaum (ed.) *Family Law and Customary Law in Asia: a contemporary legal perspective*, The Hague: Martinus Nijhoff.

Antlöv, H. (2003) 'Not enough politics! Power, participation and the new democratic polity in Indonesia', in E. Aspinall and G. Fealy (eds) *Local Power and Politics in Indonesia: decentralisation and democratisation*, Singapore: ISEAS.

Antonio, R.J. (2000) 'After postmodernism: reactionary tribalism', *The American Journal of Sociology*, 106: 40–87.

Aragon, L.V. (2001) 'Communal violence in Poso, Central Sulawesi: where people eat fish and fish eat people', *Indonesia*, 72: 45–79.

Avonius, L. (2004) 'Reforming Wetu Telu: Islam, adat, and the promises of regionalism in post-New Order Lombok', unpublished thesis, Leiden University.

Barton, R.F. (1949) *The Kalingas: their institutions and custom law*, Chicago, Illinois: University of Chicago Press.

Benda, H.J. (1966) 'The pattern of administrative reforms in the closing years of Dutch rule in Indonesia', *The Journal of Asian Studies*, 25: 589–605.

Benda-Beckmann, F. von (1997) 'Citizens, strangers and indigenous peoples: conceptual politics and legal pluralism', *Law and Anthropology: International Yearbook for Legal Anthropology*, 9: 1–42.

Benda-Beckmann, F. von and Benda-Beckmann, K. von (2001) 'Recreating the *nagari*: decentralisation in West Sumatra', Halle: Max Planck Institute for Social Anthropology, Working Paper 31.

Benda-Beckmann, K. von (1997) 'The environmental protection and human rights of indigenous peoples: a tricky alliance', *Law and Anthropology: International Yearbook for Legal Anthropology*, 9: 302–25.

Berkes, F. and Folke, C. (eds) (1998) *Linking Social and Ecological Systems: management practices and social mechanisms for building resilience*, Cambridge: Cambridge University Press.

Biezeveld, R. (2002) 'Between individualism and mutual help: social security and natural resources in a Minangkabau village', unpublished thesis, Erasmus University.

Bigalke, T.W. (2005) *Tana Toraja: a social history of an Indonesian people*, Singapore: Singapore University Press.

Bodley, J.H. (1975) *Victims of Progress*, Menlo Park, California: Cummings.

—— (1999) *Victims of Progress*, 4th edn, Mountain View, California: Mayfield.

Boeke, J.H. (1934) *Dorp en Desa*, Leiden: Stenfert Kroese.

Boomgaard, P. (2003) 'Human capital, slavery and low rates of economic and population growth in Indonesia, 1600–1910', *Slavery and Abolition*, 24(2): 83–96.

Bourchier, D. (1996) 'Lineages of organicist political thought in Indonesia', unpublished thesis, Monash University.

—— (1997) 'Totalitarianism and the "national personality": recent controversy about the philosophical basis of the Indonesian state', in J. Schiller and B.M. Schiller (eds) *Imagining Indonesia: cultural politics and political culture*, Athens, Ohio: Ohio University Center for International Studies.

—— (1999) 'Positivism and romanticism in Indonesian legal thought', in T. Lindsay (ed.) *Indonesia: law and society*, Leichhardt, NSW: The Federation Press.

—— (2001) 'Conservative political ideology in Indonesia: a fourth wave?', in G. Lloyd and S. Smith (eds) *Indonesia Today: challenges of history*, Singapore: ISEAS.

Bowen, J.R. (2003) *Islam, Law and Equality in Indonesia: an anthropology of public reasoning*, Cambridge: Cambridge University Press.

Bruinessen, M. van (2004) 'Post-Soeharto Muslim engagements with civil society and democratization', in H. Samuel and H. Schulte Nordholt (eds) *Indonesia in*

Transition: rethinking 'civil society', 'region', and 'crisis', Yogyakarta: Pustaka Pelajar.

Burns, P. (2004) *The Leiden Legacy: concepts of law in Indonesia*, Leiden: KITLV Press.

Casson, A. and Obidzinski, K. (2002) 'From new order to regional autonomy: shifting dynamics of "illegal logging" in Kalimantan, Indonesia', *World Development*, 30: 2133–51.

Castells, M. (1997) *The Power of Identity*, Oxford: Blackwell.

Chaney, D.C. (1994) *The Cultural Turn: scene-setting essays on contemporary cultural history*, London: Routledge.

Charras, M. (2005) 'The reshaping of the Indonesian archipelago after 50 years of regional imbalance', in M. Erb, P. Sulistiyanto, and C. Faucher (eds) *Regionalism in post-Suharto Indonesia*, London: RoutledgeCurzon.

Colchester, M. and Lohmann, L. (eds) (1993) *The Struggle for Land and the Fate of the Forests*, Penang: World Rainforest Movement.

Couteau, J. (2002) 'Bali: crise en paradis', *Archipel*, 64: 231–54.

Cribb, R. (1998) 'Environmental policy and politics in Indonesia', in U. Desai (ed.) *Ecological Policy and Politics in Developing Countries: economic growth, democracy, and environment*, Albany, New York: State University of New York Press.

Davidson, J.S. (2002) 'Violence and politics in West Kalimantan, Indonesia', unpublished thesis, University of Washington.

—— (2003) 'The politics of violence on an Indonesian periphery', *South East Asia Research*, 11(1): 59–89.

—— (2005) 'Decentralization and regional violence in the post-Suharto state', in M. Erb, P. Sulistiyanto, and C. Faucher (eds) *Regionalism in Post-Suharto Indonesia*, London: RoutledgeCurzon.

Dijk, C. van (2005) 'The study of Islam and adat in Java', in H. Antlöv and J. Hellman (eds) *The Java that Never Was: academic images and political practices*, Berlin: Lit.

Dobbin, C. (1980) 'Islam and economic change in Indonesia *circa* 1750–1930', in J.J. Fox (ed.) *Indonesia: the making of a culture*, Canberra: Research School of Pacific Studies, The Australian National University.

Duncan, C.R. (2004) 'From development to empowerment: changing Indonesian government policies toward indigenous minorities', in C.R. Duncan (ed.) *Civilizing the Margins: Southeast Asian government policies for the development of minorities*, Ithaca, New York: Cornell University Press.

Eghenter, C. (2003) 'Imagined models versus historical practices: tana ulen and community-based management of natural resources in the interior of Indonesian Borneo', in G.A. Persoon, D.M.E. van Est, and P.E. Sajise (eds) *Co-Management of Natural Resources in Asia*, Copenhagen: Nordic Institute of Asian Studies.

Eldridge, P.J. (1995) *Non-Government Organizations and Democratic Participation in Indonesia*, Kuala Lumpur: Oxford University Press.

Ellen, R. (1986) 'What Black Elk left unsaid: on the illusory images of green primitivism', *Anthropology Today*, 2(6): 8–12.

Elmhirst, R. (2001) 'Resource struggles and the politics of place in North Lampung, Indonesia', *Singapore Journal of Tropical Geography*, 22: 284–306.

Faucher, C. (2005) 'Regional autonomy, Malayness and power hierarchy in the Riau Archipelago', in M. Erb, P. Sulistiyanto, and C. Faucher (eds) *Regionalism in Post-Suharto Indonesia*, London: RoutledgeCurzon.

Fox, J.J. (ed.) (1997) *The Poetic Power of Place: comparative perspectives on Austronesian ideas of locality*, Canberra: Department of Anthropology, Research School of Pacific Studies, Australian National University.

Fox, J.J. and C. Sather (eds) (1996) *Origins, Ancestry and Alliance: explorations in Austronesian ethnography*, Canberra: Department of Anthropology, Research School of Pacific Studies, Australian National University.

Furnivall, J.S. (1939) *Netherlands India: a study of plural economy*, Cambridge: Cambridge University Press.

Geertz, C. (1983) 'Local knowledge: fact and law in comparative perspective', in C. Geertz, *Local Knowledge: further essays in interpretative anthropology*, New York: Basic Books.

Ghai, D. (ed.) (1994) *Development and Environment: sustaining people and nature*, Oxford: Basil Blackwell.

Ghai, D. and Vivian, J.M. (1992) *Grassroots Environmental Action: people's participation in sustainable development*, London: Routledge.

Grey, A. (1995) 'The indigenous movement in Asia', in R.H. Barnes, A. Gray, and B. Kingsbury (eds), *Indigenous Peoples of Asia*, Ann Arbor, Michigan: The Association for Asian Studies.

Haar, B. ter (1939) *Beginselen en Stelsel van het Adatrecht*, Groningen: J.B. Wolters.

Hadiwinata, B.S. (2003) *The Politics of NGOs in Indonesia: Developing democracy and managing a movement*, New York: RoutledgeCurzon.

Haga, B.J. (1924) 'Indonesische en Indische democratie', unpublished thesis, Rijksuniversiteit Leiden.

Hall, J.A. (ed.) (1995) *Civil Society: theory, history, comparison*, Cambridge: Polity Press.

Haverfield, R. (1999) '*Hak ulayat* and the state: land reform in Indonesia', in T. Lindsey (ed.) *Indonesia: law and society*, Sydney: The Federation Press.

Hawkins, M. (1996) 'Is *rukun* dead? Ethnographic interpretations of social change and Javanese culture', *The Australian Journal of Anthropology*, 7: 218–34.

Hefner, R. (2000) *Civil Islam: Muslims and democratization in Indonesia*, Princeton, New Jersey: Princeton University Press.

Henley, D. (1993) 'Nationalism and regionalism in colonial Indonesia: the case of Minahasa', *Indonesia*, 55: 91–112.

—— (1996) *Nationalism and Regionalism in a Colonial Context: Minahasa in the Dutch East Indies*, Leiden: KITLV Press.

—— (2002) *Jealousy and Justice: the indigenous roots of colonial rule in northern Sulawesi*, Amsterdam: Free University Press.

—— (2004) 'Conflict, justice, and the stranger-king: indigenous roots of colonial rule in Indonesia and elsewhere', *Modern Asian Studies*, 38: 85–144.

—— (2005) 'Of sago and kings: sustainability, hierarchy and collective action in precolonial Sulawesi', in P. Boomgaard, D. Henley, and M. Osseweijer (eds) *Muddied Waters: historical and contemporary perspectives on management of forests and fisheries in island Southeast Asia*, Leiden: KITLV Press.

Hirsch, P. and Warren, C. (1998) *The Politics of Environment in Southeast Asia: resources and resistance*, London: Routledge.

Hirtz, F. (2003) 'It takes modern means to be traditional: on recognizing indigenous cultural communities in the Philippines', *Development and Change*, 34: 887–914.

Hitchcock, M. (1997) 'Indonesia in miniature', in M. Hitchcock and V.T. King (eds) *Images of Malay–Indonesian identity*, Kuala Lumpur: Oxford University Press.

Hobsbawm, E. and Ranger, T. (eds) (1983) *The Invention of Tradition*, Cambridge: Cambridge University Press.

Holleman, F.D. (1927) *Het Adatrecht van de Afdeeling Toeloengagoeng (Gewest Kediri): een onvoltooide studie*, Buitenzorg: Archipel.

—— (1935) 'De commune trek in het Indonesisch Rechtsleven: rede uitgesproken bij de aanvaarding van het ambt van buitengewoon hoogleeraar in het Adatrecht van Nederlandsch-Indië aan de Rijksuniversiteit te Leiden, op 10 Mei 1935', Groningen: J.B. Wolters.

ICG [International Crisis Group] (2001a) 'Communal violence in Indonesia: lessons from Kalimantan', Jakarta: ICG, Asia Report 19.

—— (2001b) 'Indonesia: natural resources and law enforcement', Jakarta: ICG, Asia Report 29.

—— (2002) 'Indonesia: resources and conflict in Papua', Jakarta: ICG, Asia Report 39.

—— (2003) 'The perils of private security in Indonesia: guards and militias on Bali and Lombok', Jakarta: ICG, Asia Report 67.

Jameson, F. (1998) *The Cultural Turn: selected writings on the postmodern, 1983–1998*, London: Verso.

Jong, L. de (1988) *Het Koninkrijk der Nederlanden in de Tweede Wereldoorlog, Deel 12: epiloog*. Amsterdam: Rijksinstituut voor Oorlogsdocumentatie.

Josselin de Jong, J.P.B. de (1948) *Customary Law (a confusing fiction)*, Amsterdam: Indisch Instituut.

Jung, C. (2003) 'The politics of indigenous identity: neoliberalism, cultural rights, and the Mexican Zapatistas', *Social Research*, 70: 433–62.

Kahin, A. (2000) *Rebellion to Integration: West Sumatra and the Indonesian polity*, Amsterdam: Amsterdam University Press.

Kato, T. (1989) 'Different fields, similar locusts: adat communities and the village law of 1979 in Indonesia', *Indonesia*, 47: 89–114.

Keane, J. (1998) *Civil Society: old images, new visions*, Cambridge: Polity Press.

Kingsbury, B. (1998) '"Indigenous peoples" in international law: a constructivist approach to the Asian controversy', *American Journal of International Law*, 92: 414–57.

Kingwell, M. (1995) *A Civil Tongue: justice, dialogue, and the politics of pluralism*, University Park, Pennsylvania: Pennsylvania State University Press.

Klinken, G. van (2002) 'Indonesia's new ethnic elites', in H. Schulte Nordholt and I. Abdullah (eds) *Indonesia: in search of transition*, Yogyakarta: Pustaka Pelajar.

—— (2004) 'Dayak ethnogenesis and conservative politics in Indonesia's outer islands', in H. Samuel and H. Schulte Nordholt (eds) *Indonesia in Transition: rethinking 'civil society', 'region', and 'crisis'*, Yogyakarta: Pustaka Pelajar.

Kohn, H. (1944) *The Idea of Nationalism: a study in its origins and background*, New York: Macmillan.

Kratoska, P.H. (1983) '"Ends that we cannot foresee": Malay reservations in British Malaya', *Journal of Southeast Asian Studies*, 14: 149–68.

—— (1985) 'The peripatetic peasant and land tenure in British Malaya', *Journal of Southeast Asian Studies*, 16: 16–45.

Laksono, P.M. (2002) 'We are all one: how custom overcame religious rivalry in Southeast Maluku', *Inside Indonesia*, 70: 7–8.

Lee, H.G. (2004) 'Introduction: civil society in Southeast Asia', in H.G. Lee (ed.) *Civil Society in Southeast Asia*, Singapore: ISEAS.

Lev, D. (1985) 'Colonial law and the genesis of the Indonesian state', *Indonesia*, 40: 57–74.

—— (1987) 'Legal aid in Indonesia', Clayton, Victoria: Centre of Southeast Asian Studies, Monash University, Working Paper 44.

Levang, P. (1997) *La terre d'en face: la transmigration en Indonésie*, Paris: Éditions de l'Orstom.

Li, T.M. (2000) 'Articulating indigenous identity in Indonesia: resource politics and the tribal slot', *Comparative Studies in Society and History*, 42: 149–79.

—— (2001) 'Masyarakat adat, difference, and the limits of recognition in Indonesia's forest zone', *Modern Asian Studies*, 35: 645–76.

—— (2002a) 'Engaging simplifications: community-based resource management, market processes and state agendas in upland Southeast Asia', *World Development*, 30: 265–83.

—— (2002b) 'Ethnic cleansing, recursive knowledge, and the dilemmas of sedantarism', *International Social Science Journal*, 173: 361–71.

Lucas, A. and Warren, C. (2000) 'Agrarian reform in the era of reformasi', in C. Manning and P. van Diermen (eds) *Indonesia in Transition: social aspects of reformasi and crisis*, Singapore: ISEAS.

—— (2003) 'The state, the people, and their mediators: the struggle over agrarian law reform in post-New Order Indonesia', *Indonesia*, 76: 87–126.

McCarthy, J.F. (2002) 'Turning in circles: district governance, illegal logging and environmental decline in Sumatra, Indonesia', *Society and Natural Resources*, 15: 867–86.

—— (2005) 'Between *adat* and state: institutional arrangements on Sumatra's forest frontier', *Human Ecology*, 33: 57–82.

McGibbon, R. (2003) 'Between rights and repression: the politics of special autonomy in Papua', in E. Aspinall and G. Fealy (eds) *Local Power and Politics in Indonesia: decentralisation and democratisation*, Singapore: ISEAS.

Mahmood, M. (1996) *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, Princeton, New Jersey: Princeton University Press.

Mark, E. (2003) 'Appealing to Asia: nation, culture, and the problem of imperial modernity in Japanese-occupied Java, 1942–1945', unpublished thesis, Columbia University.

Maybury-Lewis, D. (1992) *Millenium: tribal wisdom and the modern world*, New York: Viking.

Moniaga, S. (1993) 'Toward community-based forestry and recognition of *adat* property rights in the outer islands of Indonesia', in J. Fox (ed.) *Legal Frameworks for Forest Management in Asia: case studies of community/state relations*, Honolulu: East-West Center Program on Environment.

Nader, L. (1991) 'Harmony models and the construction of law', in K. Avurch, P.W. Black, and J.A. Scimecca (eds) *Conflict Resolution: cross-cultural perspectives*, New York: Greenwood Press.

Niezen, R. (2003) *The Origins of Indigenism: human rights and the politics of identity*, Berkeley, California: University of California Press.

North, D.C. (1990) *Institutions, Institutional Change and Economic Performance*, Cambridge: Cambridge University Press.

Obidzinsky, K. (2003) 'Logging in East Kalimantan, Indonesia: the historical experience of illegality', unpublished thesis, University of Amsterdam.

Otsuka, K. and Place, F. (eds) (2001) *Land Tenure and Natural Resource Management: a comparative study of agrarian communities in Asia and Africa*, Baltimore: The Johns Hopkins University Press.

Peluso, N.L. and P. Vandergeest (2001) 'Genealogies of the political forest and customary rights in Indonesia, Malaysia, and Thailand', *Journal of Asian Studies*, 60: 761–812.

Persoon, G. (1998) 'Isolated groups or indigenous peoples: Indonesia and the international discourse', *Bijdragen tot de Taal-, Land- en Volkenkunde*, 154: 281–304.

Picard, M. (2005) '*Otonomi daerah* in Bali: the call for special autonomy status in the name of *kebalian*', in M. Erb, P. Sulistiyanto, and C. Faucher (eds) *Regionalism in Post-Suharto Indonesia*, London: RoutledgeCurzon.

Putnam, R.D. (1993) *Making Democracy Work: civic traditions in modern Italy*, Princeton, New Jersey: Princeton University Press.

—— (2000) *Bowling Alone: the collapse and revival of American community*, New York: Simon and Schuster.

Pye, L.W. (1999) 'Civility, social capital, and civil society: three powerful concepts for explaining Asia', *Journal of Interdisciplinary History*, 29: 763–82.

Redford, K.H. (1991) 'The ecologically noble savage', *Cultural Survival Quarterly*, 15(1): 46–8.

Reeve, D. (1985) *Golkar of Indonesia: an alternative to the party system*, Oxford: Oxford University Press.

Reid, A. (1988, 1993) *Southeast Asia in the Age of Commerce, 1450–1680*, 2 vols, New Haven, Connecticut: Yale University Press.

Resosudarmo, I.A.P. (2003) 'Shifting power to the periphery: the impact of decentralization on forests and forest people', in E. Aspinall and G. Fealy (eds) *Local Power and Politics in Indonesia: decentralisation and democratisation*, Singapore: ISEAS.

Roth, D. (2002) 'A national crisis in regional perspective: some observations on Luwu district, South Sulawesi, Indonesia', in C. Holtzappel, M. Sanders, and M. Titus (eds) *Riding a Tiger: dilemmas of integration and decentralization in Indonesia*, Amsterdam: Rozenberg.

Sakai, M. (2002) 'Regional responses to resurgence of adat movements in Indonesia', in M. Sakai (ed.) *Beyond Jakarta: regional autonomy and local societies in Indonesia*, Adelaide: Crawford House.

—— (2003) 'The privatisation of Padang cement: regional identity and economic hegemony in the new era of decentralisation', in E. Aspinall and G. Fealy (eds) *Local Power and Politics in Indonesia: decentralisation and democratisation*, Singapore: ISEAS.

Sangaji, A. (2002) *Politik Konservasi: orang katu di behoa kakau*, Bogor: KPSHK.

Schrieke, J.J. (1941) 'Adatrecht tegenover juristenrecht: een oude tegenstelling in neuw licht', *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië*, 100: 425–37.

Schulte Nordholt, H. (1996) *The Spell of Power: a history of Balinese politics 1650–1940*, Leiden: KITLV Press.

Simanjuntak, M. (1994) *Pandangan Negara Integralistik: sumber, unusr dan riwayatnya dalam persiapan UUD 1945*, Jakarta: Pustaka Utama Grafiti.

Smith, A.D. (1986) *The Ethnic Origins of Nations*, Oxford: Basil Blackwell.

Timmer, J. (2005) 'Decentralization and elite politics in Papua', Canberra: Research School of Pacific and Asian Studies, Australian National University, State, Society and Governance in Melanesia, Discussion Paper 6.

Tollenaere, H.A.O. de (1996) 'The politics of divine wisdom: theosophy and labour, national and women's movements in Indonesia and South Asia, 1875–1947', unpublished thesis, Catholic University of Nijmegen.

Tsing, A.L. (2002) 'Land as law: negotiating the meaning of property in Indonesia', in J.F. Richards (ed.) *Land, Property, and the Environment*, Oakland, California: Institute for Contemporary Studies Press.

—— (2005) *Friction: an ethnography of global connection*, Princeton, New Jersey: Princeton University Press.

Turner, B.S. (2001) 'The erosion of citizenship', *British Journal of Sociology*, 52: 189–209.

Vogel, J. (1992) *De Opkomst van het Indocentrische Geschiedbeeld: leven en werken van B.J.O. Schrieke en J.C. van Leur*, Hilversum: Verloren.

Vollenhoven, C. van (1910) *Een Adatwetboekje voor heel Indië*, Leiden: E.J. Brill.

—— (1918–33) *Het Adatrecht van Nederlandsch-Indië*, 3 volumes, Leiden: E.J. Brill.

—— (1934) 'De poëzie in het Indisch recht', in F.M. van Asbeck (ed.) *Mr. C. van Vollenhoven's Verspreide Geschriften, I: omtrek en methode der rechtswetenschap*, Haarlem: H.D. Tjeenk Willink.

Warren, C. (1991) 'Adat and dinas: village and state in contemporary Bali', in H. Geertz (ed.) *State and Society in Bali*, Leiden: KITLV Press.

—— (1993) *Adat and Dinas*: *Balinese communities in the Indonesian state*, Kuala Lumpur: Oxford University Press.

—— (2005) 'Mapping common futures: customary communities, NGOs and the state in Indonesia's reform era', *Development and Change*, 36: 49–73.

Warren, C. and McCarthy, J. (2002) 'Customary regimes and collective goods in Indonesia's changing political constellation', in S. Sargeson (ed.) *Collective Goods, Collective Futures in Asia*, London: Routledge.

Wee, V. (2002) *Ethno-nationalism in Process: atavism, ethnicity and indigenism in Riau*, Hong Kong: City University of Hong Kong, Southeast Asia Research Centre, Working Paper 22.

Wiessner, S. (1999) 'Rights and status of indigenous peoples: a global comparative and international legal analysis', *Harvard Human Rights Journal*, 12: 57–128.

Wilmer, F. (1993) *The Indigenous Voice in World Politics: since time immemorial*, Newbury Park, California: Sage.

Wilmsen, E.N. and McAllister, P. (eds) (1996) *The Politics of Difference: ethnic premises in a world of power*, Chicago, Illinois: University of Chicago Press.

World Bank (2004) *Village Justice in Indonesia: case studies on access to justice, village democracy and governance*, Jakarta: World Bank.

Yamin, M. (ed.) (1959) *Naskah-Persiapan Undang-Undang Dasar 1945*, Jakarta: Jajasan Prapantja.

Yashar, D. (1999) 'Democracy, indigenous movements, and the postliberal challenge in Latin America', *World Politics*, 52: 76–104.

2 Colonial dilemma

Van Vollenhoven and the struggle between adat law and Western law in Indonesia

C. Fasseur

The main feature of the legal system in Indonesia during the colonial era was its dualistic character. This dual legal system had been in existence since the eighteenth century, when the Dutch gained control of the interior of Java. It was solidly anchored in the government regulation (*Regeringsreglement*) for the Netherlands Indies of 1854.[1] According to article 75 of this 'Indies constitution', jurisdiction, legislation, and legal procedures for Dutchmen and other 'Europeans' (an expression that after 1899 also covered the Japanese) had to be based on regulations and ordinances as much as possible in conformity with the laws and procedures that existed in the Netherlands (the so-called principle of concordance). 'Natives' on the other hand – that is, Indonesians, including the Chinese minority who were especially important in Indonesian business life – were subjected to their own 'religious laws, institutions and customs' – so far as they were 'not in conflict with generally recognized principles of equity and justice' – except where 'natives' or those equated with them had voluntarily accepted European (Dutch) law either generally (which happened only in the case of 'mixed' marriages) or specifically for certain transactions. Furthermore, the colonial administration could declare – and did so many times – the applicability of certain regulations and ordinances to the Indonesian population or part of it (for instance the Chinese minority).[2] Finally, there were two separate court systems, for Europeans and non-Europeans, although in 'native' cases appeals went to the European courts and Dutchmen – either civil servants or professional judges – ordinarily presided over the non-European courts.

At the turn of the twentieth century the dual legal system came under fire. The plural and judicial organization in the Netherlands Indies was seriously challenged by government proposals for a unified legal system. By way of argument for such a reform reference was made to other colonial territories, in particular British India. A fierce discussion about the advantages and disadvantages of the introduction of modern and uniform European law concepts into native societies and of the suppression or conservation of indigenous customary or adat law in Indonesia flared up in the Netherlands and went on for many years. This debate was to dominate any further developments in the Indonesian legal field during the last four decades of

colonial rule. Finally, the day was won, perhaps somewhat surprisingly, by the so-called Leiden adat law school, which had its champion and most outstanding representative in Cornelis van Vollenhoven (1874–1933). The debate and its outcome will be discussed in more detail in the following pages.

An architect of adat law

It was the famous Leiden Orientalist Christiaan Snouck Hurgronje (1857–1936) who coined the expression 'adat law' and used it for the first time in his book *De Atjehers* (The Acehnese) published in 1893. To a certain degree this was symptomatic of the slow discovery and appreciation of native customary law in Indonesia. Even the phrase 'religious laws, institutions and customs' that had been used in the Government Regulation of 1854 was characteristic of the many misunderstandings to which the notion of indigenous law had given birth, as adat law was erroneously identified with religious – that is, Islamic – law (Van Vollenhoven 1928: 108–9).

The 'discovery of adat law' – to quote the title of one of Van Vollenhoven's almost innumerable publications in this field – did not start before the 1880s. Until the middle of the nineteenth century the Dutch knew next to nothing about the adat law of the Javanese and other Indonesians whom they had been ruling for such a long time. A systematic description and analysis of Indonesian adat law really got under way only after the appointment of Van Vollenhoven to the Leiden chair of adat law of the Netherlands Indies in 1901. This was in more than one sense a freshman's start, as he was at that moment only twenty-seven years old (Van Ossenbruggen 1976; Sonius 1981).

For more than three decades, until his early death in 1933, the forceful, albeit somewhat unbalanced, personality of Van Vollenhoven was the nucleus of the adat movement in the Netherlands, which also had, as we shall see, certain political connotations. He founded a real 'school' of adat law disciples. His students wrote more than twenty doctoral dissertations on this subject. Not a few of them later reached high positions in the colonial bureaucracy since, from 1902 on, Leiden University had the monopoly of the training and education of future Dutch civil servants for the East Indies administration. But Van Vollenhoven himself easily carries off the palm. It was on him and his tireless work that the labour of others, his pupils, admirers, and even his opponents, was centered (Korn 1948; Kollewijn 1948). With his great work *Het Adatrecht van Nederlandsch-Indië* (Adat Law in the Netherlands Indies) – the first volume (of three) was published in 1918, but the first instalments had already been appearing since 1906 – he set his seal for ever upon the scientific study of this subject. In 1909 he also took the initiative in establishing the Commission for Adat Law (Adatrecht-commissie), of which he was to remain secretary until the end of his life; in setting in motion the publication of the many volumes on adat law published by this body; in founding in 1917 the Adat Law Foundation

(Adatrecht-stichting), with its magnificent library still present in Leiden; and finally in being the fountainhead in many other activities in the interest of the study of the customary law of Indonesia. Without any exaggeration, in writing Van Vollenhoven's obituary, one of his admirers, F.D.E. van Ossenbruggen, could proclaim that he had been the man 'who elevated *adat* law to a science' and who had made the denial of such a science impossible once and for all (Van Ossenbruggen 1976: 59). Dutch legal language adopted the word *adatrecht* for the first time in 1910; Dutch dictionaries did so in 1914.

A reluctant administration

After 1900, the growing interest in the 'new science' of adat law presented a very different picture from the preceding ages of official neglect of indigenous law in Indonesia. With the exception of one or two compilations of old Javanese laws in the eighteenth century, literature and research had been virtually non-existent until 1848. In that year a whole system of new legislation for Europeans was introduced: a civil code; a commercial code; a code of civil procedure (for civil suits against Europeans); a code of criminal procedure; and a new ordinance on the judiciary. A penal code for Europeans followed in 1866. Apart from new rules on native judiciary (combined with the regulation on court organization for Europeans) and only one ordinance on indigenous civil and criminal procedures, the Indonesians were left to themselves and to their own, also unknown, adat law. A rather hasty proposal to apply the European civil code partially to them was rejected by Governor General J.J. Rochussen in 1848 and 1849. He was of the opinion that such a radical measure would play havoc with Javanese society and, for that reason, was 'hazardous' and 'impolitic' as long as no other social order (for instance, an order based on Christianity instead of Islam) was there to take the place of the original one (Ball 1982: 220–2). He was also afraid of the impact of such a far-reaching proposal on the cultivation system in Java that was pouring huge profits into the Dutch treasury at that time. It was possible, he argued, to base such a system of forced crop cultivation on native traditions and customs, but impossible to do so on Western judicial concepts.

John Ball in his study on Indonesian legal history concludes from these and other observations that European self-interest and indifference to the indigenous legal order contributed most to the evolution of dualism in the colonial legal system, in particular in a country like Indonesia (Ball 1982: 236). Daniel S. Lev also suggests that colonial law and especially plural law, plurally administered, was intended primarily to make exploitation efficient. Nevertheless even Lev (1985: 57, 60) has to acknowledge that different courts and different laws were only 'equitable'; otherwise people denied their own law might rebel. The Dutch indeed faced an insoluble dilemma. The adoption of Western law for the Indonesians would have

meant that Indonesian society was turned upside down. At the very least it was a big leap in the dark, nobody being able to foretell the consequences of the abolition of adat law, as nobody knew anything about it. For this reason – insufficient knowledge of indigenous land rights – in 1866 a majority of the Second Chamber of the Dutch parliament rejected a bill proposed by the Minister for the Colonies, I.D. Fransen van de Putte, to confer the proprietary rights over the cultivated land on the Javanese cultivators, at the same time granting an award of the ownership of the uncultivated land to the government. This rejection led to a temporary schism in the liberal party and the fall of the liberal government.

The Dutch were neither fools nor angels. They were, however, severely handicapped by their lack of knowledge of the indigenous languages, in particular Javanese. How could they have studied adat without sufficient knowledge of native vocabulary and customs? Only in 1842 – almost forty years after the foundation of the East Indian College at Haileybury (in 1806), where the future officials for the British Indian Civil Service were trained – was the instruction and education of young officials for the Dutch East Indian administration begun at the Royal Academy for Engineers in Delft. The Minister for the Colonies, J.C. Baud, who was instrumental in bringing about this decision, thought that it was 'a manifest truth that a subjected people can not, in the long run, be kept in subjection without violence unless the foreign ruler was determined to govern this people with fairness and justice and, above all, in deference to native attitudes, customs and bias' (*Historische Nota* 1900: 23). To achieve this latter, knowledge of the Javanese language in particular would be a prerequisite; language instruction thus became the core of the education bestowed on the future Dutch East Indian officials, first in Delft and, after the liquidation of the institute in 1900, in Leiden. Baud's well-known penchant for the Javanese language also had other antecedents: as governor general he had once had to decide on the execution of the death sentence on three Javanese who had been accused of robbery and murder. On reading the judicial documents Baud was assailed by the uneasy feeling that the Dutch official who had presided over the native court had, because of his poor command of Javanese, condemned three innocent people. Baud decided to permit them to request a reprieve from the death sentence. Before a decision had been reached on their petition another, similar crime was committed in the same region. The offenders were caught and subsequently confessed to being guilty of the previous robbery as well. These events had not failed to make a deep impression on him (Fasseur 1989b).

After 1850, with their better command of indigenous languages, some Dutch officials – certainly not all of them – became more interested in the customs and attitudes of the people they had to administer. The 'discovery' of adat law had begun in reality. The first scientific works were published by civil servants such as G.A. Wilken (1847–91) on the Central Moluccas, the Minahasa in northern Sulawesi, and Sumatra, and F.A. Liefrinck (1853–

1927) on Bali and Lombok. Both were ardent self-taught anthropologists and ethnologists; Wilken ended his short life as a professor of ethnology in Leiden (Van Vollenhoven 1928: 99–106). Their shrewd observations on native customs and traditions, the rights to the soil, family law, and other topics provided many useful bricks for Van Vollenhoven's monumental edifice on adat law in Indonesia. The missionaries, too, acquitted themselves well, although they were sometimes more sceptical of all these 'pagan' institutions or traditions obscured by 'the darkness of Islam'. On the other hand, the Dutch lawyers who served in the judicial functions in Indonesia were often less enthusiastic, convinced as they were of the superiority of Western concepts of law to those of 'primitive' societies. Their attitude to native law was broadly the same as that of the physician who runs into the tribal health services of the local medicine man (Van Vollenhoven 1928: 114). Their judicial training and the terminology they were used to, moulded on Roman and Dutch law, were moreover a serious handicap to a better understanding and appreciation of the specific identity and essence of adat law institutions. In this respect civil servants like Liefrinck and Wilken, not burdened by a judicial education, were often less inclined to torture adat law concepts on the Procrustean bed of Western terminology and definitions.

The rather condescending way in which the Dutch lawyers during the second half of the nineteenth century used to look upon the adat law institutions with which they were confronted had, at least for the time being, more impact on the shaping of government policy in this field than the interest shown in native law by some civil servants who lacked the prestige of the professionals. We should also be aware of the enormous influence of Western ethnocentricism and feelings of superiority in that imperialistic age with regard to – I quote Rudyard Kipling – 'the lesser breeds without the law'. Questions could arise not only about the intrinsic value of adat law but also about the feasibility of its implementation. First, adat law was by definition unwritten and for that reason difficult to get to know or to understand. According to article 7 of the regulation on court organization and administration of justice of 1848, the judge had in all civil and penal cases against 'native' defendants to interrogate their 'priests' (*sic*) and chiefs on the relevant customs and institutions – a time-consuming and usually not very satisfactory procedure. Second, adat law, as even a cursory glance at it could show, was very multiform and regionally diverse. For instance, in his writings, Van Vollenhoven distinguished no fewer than 19 adat law 'circles' in the Indonesian area. This marked local and regional differentiation was an evil in the eyes of Dutch lawyers nurtured in the cradle of centralistic Napoleonic law concepts. It also presented a rather mournful spectacle to those who were sympathetically inclined toward native law.

Finally, and here the Dutch looked to the example set by the British in India, time did not seem to be on the side of adat law. Did not progress demand the introduction of a uniform and 'higher' law than these native

institutions and curious customs which were so badly equipped for the modern epoch? The legal policy of the British government in India in the footsteps of Macaulay – the adoption of a penal code in 1860 and a code of criminal procedure in 1861 which were applicable to all groups of the population, not to mention the more or less simultaneous enactment of a complete code of civil procedure, the Succession Act of 1865 and the law of contracts introduced in 1872 – appeared to be worthy of imitation (Van Vollenhoven 1925: 313; Strachey 1911: 99–118). How these feelings influenced government policy in colonial Indonesia can best be shown by means of the penal law system that was introduced after 1848, pluralistic in name but not in fact.

Dualistic penal law: unity under a multiform cloak

Penal law had not been covered by the wave of codification that hit the colony, at least the European segment of it, in 1848. The Netherlands did not then possess a proper national penal code of its own and was still applying the French penal code (*Code Pénal*) imposed by Napoleon after his short-lived annexation of the country in 1810. After 1848, therefore, the Dutch had no other choice but to maintain the 'old Dutch' and 'Roman' penal law that went as far back as 1642. After the largely futile efforts of three drafting committees in both Indonesia and in the Netherlands, a penal code for Europeans in the Netherlands Indies could finally be promulgated in 1866; it took effect on 1 January 1867 (Fasseur 1988). The newly adopted penal code was a faithful copy of the French code that remained valid in the Netherlands until 1886. But what policy should be followed toward the native Indonesian population? Adat penal law was virtually unknown and the cruel and inhuman penalties inflicted by Islamic courts (such as amputation of the hands) had already been abolished at the beginning of the nineteenth century. As a rule Dutch judges applied Dutch penal law concepts in cases which were brought to trial (as they did in civil cases).

The Dutch government therefore decided to frame a penal code for natives and other non-Europeans that in its turn would be a faithful copy of the European one adopted in 1866. Later on a commentator jokingly compared this decision to the course of events in a parsimonious Dutch middle-class household. After many years of loyal service the threadbare coat of the master of the house was not thrown away but cut up into a jacket for the oldest son, subsequently into a cap for the second one and so forth.[3] In 1866, F.F.L.U. Last, member of the Supreme Court in Batavia, was given a commission for the drafting of a native penal code modelled on the European counterpart. Last, however, did not appear to be entirely convinced of the wisdom of his mandate. In a letter to the governor general in 1868 he argued that such 'a servile imitation' could be rendered just as well by 'the humblest of all clerks', but that the result of such an imitation would be totally unintelligible to even the cleverest native chief. In Last's opinion,

moreover, the French penal code 'written for a turbulent French nation more than half a century ago' was completely unsuitable for implementation in the 'peaceful' Javanese society.[4] These were interesting, if not very constructive, remarks, which had a predictable effect. A few months after he had lodged his complaints Last was discharged as a government commissioner. His successor was the ambitious director of the new Department of Justice in Batavia, T.H. der Kinderen, who wasted no love whatsoever on adat law. His penal code for natives that came into force in 1873 was an almost perfect copy of the European edition. From that time on adat penal law was a thing of the past, mourned only by a handful of ethnologists. Some of them afterward stated, not very convincingly, that the introduction of Western penal law had stimulated the almost suppressed tradition of headhunting by Dayak tribes in Borneo as, unlike the old adat institutions, the new penal code did not recognize the possibility of a compensation order and so had rekindled the practice of vendetta![5]

When a really national penal code was introduced in the Netherlands in 1886, history seemed to repeat itself. A new penal code for Europeans in the Netherlands Indies, again a copy of the code then valid in the mother country, was promulgated in 1898 but did not obtain statutory force as the Minister for the Colonies preferred to wait for the framing of its 'native sister' before adopting both codes at the same moment. That moment, however, as we shall see, was never to come.

The drive toward unification

The trend toward unification in the field of penal law might be explained with the argument that an efficient enforcement of 'law and order' – in any colonial territory always an important asset, and certainly so in the eyes of a small power like the Dutch – required a legislation which was in principle the same for all inhabitants. On the other hand, differentiation could be accepted more easily in private and commercial law, as long as the economic ties between different groups of the population (not only between the tiny Western and the huge non-Western part of it but also between the native populations of different regions) were weak or even non-existent. Difficulties arose, however, as soon as cases were regularly submitted to the courts in which the litigants belonged to different cultural and ethnic groups with different systems of law. Which law should be applied, and how was the judge to be cognizant with the particular branch of adat law of the parties involved in the conflict that he had to resolve?

These questions became more and more urgent in the 1890s as a result of the improvement of communications in the Indies during the last quarter of the nineteenth century, the increased mobility of the population, and the upsurge of the economy after a long period of depression. The first railways in Java were constructed around 1870, and the first extensive network of shipping routes in the archipelago had been organized by a government-

licensed shipping company around 1890. There was another pressing motive for a fundamental reconsideration of the necessity for judicial reforms in the Indies, too. The legal status of the small but fast-growing segment of the indigenous population who had been converted to Christianity was completely unclear. According to the letter of the Government Regulation of 1854 (art. 75), they were subjected to the 'religious laws, institutions and customs', marriage law excepted, on the same basis as their Muslim compatriots. But what did this expression mean exactly? Had one to think of Islamic laws or of a sort of Christian substitute, and how could one clarify such a non-denominational Christian adat law? Moreover, in the eyes of the missionaries, Indonesian Christians were certainly discriminated against, as they had to perform forced labour on Sundays and Christian holidays, but had to rest on Islamic feasts.

In 1890, the Dutch scholar L.W.C. van den Berg (1845–1927), a former adviser to the Dutch colonial government on Oriental languages and Islamic law, wrote an alarming article in the influential Dutch political monthly *De Gids*, in which he painted the legal status of the Indonesian Christians in the darkest colours. His conclusion was that the cause of Christianity could not be expected to make much progress in the Indies unless the legal status of its Indonesian converts was greatly improved. 'As a result of his lack of legal certainty', Van den Berg wrote, 'the native Christian is a creature that can hardly take any step on his path of life without stumbling over judicial questions' (Van den Berg 1890: 97).[6] This harsh sentence could not fail to make a considerable impact on the powerful Christian political parties in the Netherlands. The improvement of the legal status of their Indonesian co-religionists, in order to expedite the spreading of the Gospel, became one of the main issues of their colonial programme in the years that followed. The Liberal Party, entrenched on the government benches until 1901 when a coalition of Protestant and Roman Catholic parties took over, also felt somewhat disturbed. In 1892, a state commission was established for the revision of the colonial legislation in the field of private law, with Van den Berg as its secretary.[7] It drafted an ambitious programme of action for judicial reform that did not, however, prove to be very effective in the years that followed. Legislation, certainly when it is prepared by a commission, is always a long-winded affair!

After 1897, a second line of approach was followed by the liberal Minister for the Colonies, J.Th. Cremer. Van Vollenhoven, then a young official at the Colonial Office, was his private secretary. Probably Van Vollenhoven inspired Cremer's decision to embark on a new course. This new policy aimed at a codification of local adat law, taking the compilation of adat in the Christian regions of the archipelago (Minahasa and the Moluccas) first. J.H. Carpentier Alting (1864–1929), president of the native court (*landraad*) in Minahasa, later on a Leiden professor, prepared a compilation in two volumes of certain aspects of adat in that area (including adoption and matrimonial law).[8] But this tree too failed to bear fruit. The original

intention was, of course, to afford more certainty to both the local population and the government officials. In this respect we should be aware of the Dutch judicial axiom, one of the cornerstones of the Dutch civil code, that custom does not bind (does not give any rights) unless the law refers explicitly to it. Therefore, compared to Anglo-Saxon legal culture, the Dutch legal system allows very little room for any unwritten customary law contribution which does not have a basis in the written law. But the recording of adat threatened to amount to the simultaneous fossilization of native law, as it could then no longer accommodate itself to changing circumstances and local needs. Besides, the work proved to be of gigantic proportions and therefore a time-consuming affair. Not only was a prior local enquiry an absolute condition – even an expert like Alting took almost four years to complete the first chapters of his compilation on the Minahasa – but, as Van Vollenhoven himself rightly guessed, no fewer than 19 or 20 of such local codifications would be needed to chart the complex and highly diverse legal situation in the whole of Indonesia. This vision of a multiplication of overlapping codifications, prepared by an army of eager adat experts, taking half a century or longer, did not appeal much to government officials or to practising lawyers who were looking for an immediate solution to their many questions. The Batavian 'desk-lords', as Van Vollenhoven called them, were even less pleased with his ideas when he suggested that each adat codification would be abrogated automatically after ten or fifteen years in order to force the administration continuously to adapt the adat regulations to new developments and changed circumstances in native society (Van Vollenhoven 1905: 38–9).[9]

After the fall of the liberal government in 1901, however, the judicial policy of the Dutch took a new turn. The Christian Minister for the Colonies, A.W.F. Idenburg, commissioned Van den Berg to prepare a radical modification of the much-discussed article 75 of the government regulation of 1854. This resulted in a bill that was sent to the Dutch parliament in 1904. It was Idenburg's successor, the liberal D. Fock, who took upon himself the task of defending this proposal in parliament at the end of 1906 (the legislative process in the Netherlands had, and still has, a lamentable reputation for tardiness).

The fact that Fock did not have any objections to endorsing a bill which was originally drafted under the responsibility of his political opponent and predecessor demonstrated that the main political parties in Holland had been able to come to terms with each other in the field of judicial reform in Indonesia. This coalition was indicative of a new era, that of the so-called ethical policy. This policy was aimed at the emancipation or elevation of the indigenous population. Welfare, modernization, and 'good government' were its catchwords. But how could these lofty aims be realized under the poor, obscure, and backward adat law system Indonesian society was subjected to? One of the leading liberal politicians of his days, C.Th. van Deventer, the man who had actually inaugurated the ethical policy some years before,

even saw a direct link between unification of law and common prosperity; the latter was not really possible without the former. Only Western law could ensure judicial certainty for the indigenous people, and industry and commerce would follow in its footsteps and flourish. In his words – and we should not forget that Van Deventer, like Fock, had been a professional advocate in Java for many years – 'one must recognize that the natural development for Orientals in a colony administered by a Western power is that they, albeit slowly, will have to conform to Western law'. And in quoting Macaulay he assured his fellow members of parliament: 'Uniformity when you can have it, diversity when you must have it, but in all cases certainty'.[10]

The comparison with other colonial territories, in particular British India – elaborated upon in the numerous appendices of the explanatory memorandum to the bill – strengthened Van Deventer and like-minded members of parliament in their belief that unification would win the day and that time would soon overtake dualism.

The obvious tenor of the government proposal was to pave the way for a general application of European law in native society. European law – concordant with the laws existing in the Netherlands – would be the rule. Adat law would be the exception, being relevant only if 'the different needs' of the indigenous population made any such deviation necessary. This would mean that adat law would be banished to the outskirts of civilized society; only in certain limited fields – for instance family law and intestate law – might it continue to play an important role, provided that the European law referred expressly to the use of adat law. In this way – and that was of course the great attraction of the government bill for many members of parliament belonging to the Christian parties in the Second Chamber – the problems surrounding the legal system of the Indonesian Christians would have been solved as well.[11]

Success seemed to be within reach, but the outcome of the parliamentary debate was, after all, a bitter disappointment to Fock and Van Deventer. The bill was amended by a dissident majority in the Second Chamber and in its final version – promulgated on the last day of 1906 – an unworkable instrument for the government.[12] It was never put into force and was finally replaced by a new regulation in 1919. The failure was the direct result of the one-man crusade waged by Van Vollenhoven against the government proposals. In a very eloquent manner the young Leiden professor had managed to warn parliament against the far-reaching consequences of such a rash decision as the abolition of adat law without any prior enquiry.[13] His admonition that parliament must be wiser than the government had a marked effect. A majority of wavering liberals and Calvinist members of parliament (who were less convinced of the blessings of Western judicial civilization than the former lawyers Fock and Van Deventer) backed an amendment to the bill which turned its main intention upside down. Not adat law but European law would be the exception to the rule. Only when the needs of

native society required it, declared the new article 75, could European law be declared applicable. The burden of proof was thus actually turned 180 degrees. The old axiom that the colonial government should be cautious about interfering with native institutions and customs had carried the day. As one speaker in parliament ironically summarized the debate: the amendment had been a lifeboat for the minister when his ship was sinking, but it had brought him to the wrong shore, that is to say it had brought him back to the same shore of the river which he had wished to cross![14] And so it was.

Stalemate

In the light of hindsight the long discussions on the bill of 1904 were the decisive moment in the drive towards unification of law in Indonesia during the last decades of colonial rule. Not unification as such but legal certainty had been the ultimate goal of the supporters of judicial reforms. If legal diversity had not obstructed this ideal, it might have been acceptable after all. After 1906, the movement for unification gradually lost its momentum and finally petered out. The 'unifiers' were satisfied when a new law, adopted in 1919 and giving article 75 its definite form, declared that private and public law must be regulated by government ordinance, which implied that adat law should be codified.[15] So, as the years passed by, Van Vollenhoven was able to reap the fruits of his campaign against the expansion of Western law in the Archipelago. His students obtained important positions in the colonial administration and his ideas received a more general acceptance as time went by. The only lasting achievement of the unification lobby was the adoption in 1918 of a unified penal code for the Netherlands Indies, in which the separate codes for Europeans and natives were amalgamated.[16] But this was more a question of form than of substance, as both penal codes had been more or less identical already. The penal code of 1918 – almost identical with the Dutch one, with some special provisions for the implementation of punishments meted out to Indonesian offenders – is still valid in present-day Indonesia. But proposals for the introduction of a uniform code of criminal procedure for all groups of the population – Indonesians, Chinese, and Europeans – broke down in 1919, and such was also the fate of the draft of a unified code of civil law published in 1923. This code, which numbered 2220 articles (!), was safely locked up in a desk after a blistering attack by Van Vollenhoven (1925) on this odious specimen of a 'ready-made judicial product: a unified private law for the Indies'.

European law for everyone would from then on be a thing of the past. And Van Vollenhoven did not miss the opportunity to point out that even in India – for such a long time held up as a striking example to all 'unifiers' – that is, lawyers, mission friends, and radical liberal politicians – a debate was going on about the advantages of the codification of adat law. He was also very effective in his fight against a government proposal that would, if successful, have compelled the Indonesians to the full acceptance

of European legal principles with regard to the ownership of land, for the sake of the large-scale agrarian development from which Western enterprises would have profited most. This bill threatened to become a repetition of the history of 1866. In 1919, it inspired Van Vollenhoven to write a bellicose pamphlet, *De Indonesiër en Zijn Grond* (The Indonesian and His Land) whereafter the bill was withdrawn by the Minister for the Colonies.[17]

On the other hand, Van Vollenhoven was less successful in the promotion of a real adat alternative that could respond to the needs of modern society. In 1910, he made a courageous attempt to draft *A Specimen Code of Indonesian Adat Law* (*Een Adatwetboekje voor Heel Indië*). In only 111 articles a whole set of co-ordinated adat law principles, ready for immediate use by the judge, was presented to the reader. But the booklet proved to be too rudimentary an edifice to give a satisfying answer to the question of how adat law could be made operational in practice. For instance, in the chapter on adat penal law (Van Vollenhoven's draft covered not only private law but also public law), punishable offences were defined as facts that conflicted with adat law and/or facts that violated the good faith required in society, unless the judge was of the opinion that this behaviour had been 'justified by the demands of self-interest'! (Van Vollenhoven 1910: 31). Here and elsewhere legal certainty had been entirely lost sight of. This guideline for the judge was in reality the proclamation of his complete freedom to invent the law that, depending on the circumstances, suited people most. Thus it opened the door for judicial arbitrariness. In his later years Van Vollenhoven, though, proved himself to be a fierce opponent of any codification of adat law, for fear that it might stifle a harmonious development of native customs and institutions. At most, all the study of adat law could in his opinion offer the judge was a manual to assist him in making up his mind in any concrete case he might have to deal with.[18]

Perhaps this inability to present a workable alternative was not so much Van Vollenhoven's fault as that of adat law itself. Could it really be a useful instrument for responding to the needs of the individual and society in a rapidly changing and modernizing Indonesian world? Van Vollenhoven and his students might have been so busy in pursuing their enquiries and gathering data about adat law – a work that by definition could never be finished – that they never seriously got round to answering this crucial question. It was Professor J. de Louter, one of the few critical voices in the 1920s not silenced by the great master, who formulated the dilemma sharply. Is it enough, he asked, to judge the policy of a colonial government according to the degree to which it respects native institutions and adat law, or should the criterion be that such a government must give the law that best suits the needs of modern society, thus preventing Indonesia from turning into an open-air adat museum? For De Louter himself the answer to this question was not difficult. He considered the judgement of a colonial administration solely by the yard-stick of respect for native customs and adats 'not only one-sided and unfair but moreover short-sighted and dangerous' (De Louter

1929: 666–7). Although it would be unfair to postulate that Van Vollenhoven had entirely shut his eyes to these dangers, the question may nevertheless be posed as to whether he was entirely aware of the risk that his protectionist policy could deny Indonesia many opportunities for further development.[19]

An alternative might have been the introduction of an intermediate system of law that tried to combine elements of both Western and adat law in a delicate equilibrium. The concept of such a 'mixed' law for all groups of the population, Europeans and Indonesians alike, had for instance found a stout defender in the prominent Dutch East Indies official I.A. Nederburgh, who also edited a magazine, *Wet en Adat* (Law and Adat), for some years at the turn of the century.[20] But there were severe doubts about the feasibility of this approach, considering the many years it would take to finish the job. And would the outcome not be – to draw a modern parallel – like a Javanese gamelan orchestra conducted by Herbert von Karajan, or, conversely, like the *Berliner Philharmoniker* conducted by a Javanese *dalang*, the presenter of the Javanese shadow play (*wayang*)?

As in other respects – for instance in their attitude towards the Indonesian nationalist movement – the colonial policy of the Dutch in the field of legal and judicial reforms, so hopefully inaugurated at the very outset of the twentieth century, ended in the last decade before the Second World War in a deadlock, in which there was hardly any room for manoeuvre. Although the pride of the Dutch in their achievements in the field of adat law studies might have been justified, seen from a scientific point of view and in an international perspective, here too they were unable to find an adequate solution to the many problems which a rapidly modernizing colonial Indonesia had to face.

Aftermath

What did Indonesians themselves think of the judicial reforms and the adat law policy of the Dutch? As is usual in a colonial situation, their opinion was never asked. Moreover, in the colonial era there were hardly any Indonesian lawyers to give an opinion. Rudimentary legal training for Indonesians was not introduced until 1909. A complete law faculty was opened in Batavia (Jakarta) only in 1924. This faculty would become the cornerstone of the first fully fledged university in Indonesia, founded in 1940 after the German occupation of the Netherlands. One of the most prominent professors in this law faculty was Bernard ter Haar, who taught adat law. This pupil of Van Vollenhoven was also the author of a well-known work on Indonesian customary law, the first full treatise on this subject to be translated into English: *Beginselen en Stelsel van het Adatrecht* (1939), translated as *Adat Law in Indonesia*.[21] In 1942, on the eve of the Japanese invasion of Indonesia, the colony numbered 194 professional advocates in all, of whom 122 were Dutch, 36 ethnic Chinese and only 36 ethnic Indonesian. Moreover, in 1939 there were around thirty academically trained

Indonesian judges, all of them, with one exception, sitting in native courts, although Dutch judges were still in the majority in this branch of the judiciary as well (Lev 1985: 60, 68, note 19).

Many of these Indonesian lawyers had received their university training in the Netherlands, in particular at the University of Leiden, for want of an Indonesian academic alternative. The first Indonesian who submitted his doctoral dissertation to Van Vollenhoven was Moestapa in 1913 (on the adat of the Sundanese in West Java). He was followed by seven other fellow countrymen who wrote their theses under the supervision of Van Vollenhoven or his close colleagues. The best-known and most influential of them was Supomo, who became Ter Haar's successor to the chair of adat law at the Jakarta university and the first republican Minister of Justice in independent Indonesia after 1945 (Sonius 1981: XXXIX, LXV, note 23). It was he who drafted the constitution of the new state. Supomo's attitude towards adat law was highly ambiguous. Although the writer of two books on adat law before the war and a well-known expert, he turned coat after 1945. And so did the large majority of influential Indonesian lawyers.[22]

The choice presented to independent Indonesia between the unifying Western legal tradition and adat law has thus been resolved in favour of the former. The European codes on both private and penal law have retained their validity, although their applicability in practice is limited to the rather small upper strata of Indonesian society and economic life that require the intervention of professional judicial institutions. Adat or unwritten law is usually reserved for the lower classes, mainly rural Indonesians, at the village level. Adat judiciary courts, the position of which was strengthened by the Dutch in the last decade of colonial rule, especially in the islands outside Java, were abolished during the war and during the years of revolution that followed. Only Islamic courts survived. In the words of Lev (who is evidently overstating his case): 'the substantive law of post-1945 Indonesia remained almost exactly the same as it was in 1941' (Lev 1985: 69).

M.B. Hooker (1975: 283) thinks it ironic that the views of opponents of Van Vollenhoven, who were in his opinion the real colonialists, have come to prevail in modern Indonesia after all. This should come as no surprise to us. In 1928, an influential Indonesian member of the Dutch East Indies Volksraad (People's Council, a sort of representative assembly, constituted in 1918, with mainly advisory powers) had already observed that 'the admiration of adat law is to be found more among Europeans than among Indonesians' (Cassutto 1935: 29, note 29). And Van Vollenhoven himself thought it necessary to warn the Indonesian protagonists of unified law that their aspirations were wrong, as legal differences between Europeans and Indonesians could be justified because of the different conditions prevailing in native society (Cassutto 1935: 29, note 30). This reproach was indicative of the suspicion with which Indonesian intellectuals and nationalists before the war viewed the Leiden adat school. 'Unification' was their slogan, not the endless judicial and ethnic fragmentation and differentiation which seemed

to be the inseparable sisters of the protectionist adat law policy (Lev 1973: 4–5). How could a unified and independent country survive without a unified regime of law? How could a 'primitive' adat law be a suitable vehicle for modernization? In spite of Van Vollenhoven's honest intentions, adat and all that he had stood for were seen as an impediment to further development, adat chiefs as tools of the Dutch (which indeed they often were), and adat law as fundamentally a Dutch, not an Indonesian, creation (Lev 1985: 64). This proved to be a bad omen for the position of adat law in postwar independent Indonesia.

Notes

1 I will not try to describe in detail here the very complicated and judicial dualistic situation that existed in the Netherlands Indies during the last century of colonial rule, the period before 1848 having been admirably summarized by John Ball (1982). Such an elaborate survey would burden the general argument of this essay and be a very tedious affair indeed. It may suffice here to mention that useful English-language surveys of this complex matter have been presented by Hooker (1975: 250–300), Lev (1973, 1985) and Sonius (1981).

2 Ball (1982: 224). The Government Regulation of 1854 (art. 109) made a distinction between Europeans and those equated with them (native Christians) on the one hand, and 'natives' and those equated with them (Chinese, Arabs, and other 'Orientals', until 1899 including Japanese) on the other hand. Each of these categories was subjected to its own system of public (administrative, penal) and private (family, civil, commercial) law. The question of who belonged to the European and who to the native group was not decided by the law. The criterion was an ethnological one and did not cause many difficulties in practice. Not until 1920 were the inhabitants of the Netherlands Indies given the right to ask for a judicial decision about their classification if they wished so. By a law of 31 December 1906 (but not operative until 1 January 1920) a new legal division was made between: (1) Europeans (including Japanese, Siamese, and other non-European nations with a European system of family law); (2) Natives (Indonesians including Indonesian Christians); and (3) Foreign Orientals (Chinese, Arabs, and other Asiatic nations not covered by (1)). This mainly racial classification, however, was not definitive for the private law that was applied to the different categories and subcategories. Indonesian Christians, for instance, had the same marriage law as the European group; after 1855 the commercial law was the same for Europeans, Chinese, and Arabs.

3 M.C. Piepers, quoted in *De Indische Gids* 10 (1) (1888): 776.

4 Last to Governor General, 2 February 1868, in Nationaal Archief, The Hague, Archief Ministerie van Koloniën 1850–1900, Exhibitum 20 May 1868, Portfolio 2081.

5 H.H. van Kol in *Handelingen van de Tweede Kamer der Staten-Generaal*, 10 October 1906: 40. Van Kol referred to the so-called *bangun* or compensation money for manslaughter in adat penal law.

6 For a short biography of this interesting scholar see *Encyclopaedie* (1917–39, vol. 6: 31–2).

7 This not very well known state commission (it was not even mentioned by Van Vollenhoven in his work on the discovery of adat law) was established by a royal decree of 30 July 1892 (in Nationaal Archief, The Hague, Archief Kabinet van de Koningin, Portfolio 3117).
8 Fasseur 1989a. Van Vollenhoven's warm support for Cremer's approach (he later changed his mind, however) appears from the publications mentioned in note 9.
9 See also Van Vollenhoven's comments (*Verslagen der Algemeene Vergaderingen Indisch Genootschap*, 2 December 1905: 19–22) on a lecture by I.A. Nederburgh on the topic 'Legal Reform in the Netherlands Indies'.
10 C.Th. van Deventer and D. Fock in *Handelingen van de Tweede Kamer der Staten-Generaal*, 10 October 1906: 35–6 and 11 October 1906: 59–65. Van Deventer, who wrote a famous article (1899) on Holland's 'debt of honour' to Indonesia, was also the author of a long later article on 'Legal reform in the Indies' which had Macaulay's saying as a motto (Van Deventer 1905).
11 This is evident from the lengthy debates in parliament (*Handelingen van de Tweede Kamer der Staten-Generaal*, 10–16 October 1906: 30–109).
12 De Louter (1907) gives a concise summary of the debate.
13 See the publications by Van Vollenhoven mentioned in note 9.
14 The prominent Christian politician A.F. de Savornin Lohman. Compare De Louter (1907: 344).
15 Compare: C.C.v.H. 1922; Kleintjes 1927–9, vol. 2: 242–54.
16 The work on this unified code started in 1911 and was finished in 1915. It was carried out by a subcommittee of the state commission of 1892. The work on the code of criminal procedure came to grief as the Dutch were unwilling to confer equal procedural guarantees upon Indonesians.
17 Other, less controversial legislative measures aimed at fostering greater economic viability also met with a lot of opposition from Van Vollenhoven whenever they took too little account of adat. An example is the 1908 ordinance on credit facilities, which provided for the encumbrance of land in cases of debt, thus avoiding the often onerous consequences of the adat way of handing over land in return for a loan (Sonius 1981: XXXVIII).
18 In 1931, for instance, he was to declare: 'The problem cannot be solved by codification, or replacement, or unification, or partial retention of adat law, nor by such revision or publication of it as jurisprudents or policy makers see fit to make, but only by the people's own will to maintain, expand and rejuvenate that law' (Holleman 1981: 260).
19 Compare the critical remarks on Van Vollehoven and his work by Lev (1985: 63–7).
20 See Nederburgh's 1905 lecture on 'Rechtshervorming in Nederlandsch Indië' (*Verslagen der Algemeene Vergaderingen Indisch Genootschap*, 2 December 1905: 1–19); also Sonius 1981: XXXVI–XXXVIII.
21 This was also the first time (1948) that a major work on adat law was made accessible to readers who did not understand Dutch. Ter Haar died during the Second World War. Resink (1974) discusses the role of Ter Haar in the intellectual life of colonial Indonesia and his impact on his Indonesian students (three of them wrote doctoral dissertations on adat law under his supervision).
22 Lev (1985: 69) stresses the point that most Indonesian advocates who practised in both the courts for Europeans and the native courts were contemptuous of

local adat and adat institutions; being nationalists they preferred 'modern' legal institutions and procedures even if these were of European origin. A summary of Supomo's own view on the future of adat law appears in his short biography (1949) of his predecessor Prof. B. ter Haar.

References

Ball, J. (1982) *Indonesian Legal History 1602–1848*, Sydney: Oughtershaw.

Berg, L.W.C. van den (1890) 'Het kruis tegenover de halve maan', *De Gids*, 54(4): 97.

Cassutto, I.H. (1935) *Het Adatrecht van Nederlandsch-Indië, zijn Waarde voor het Heden en voor de Toekomst* (professorial inaugural lecture), Groningen: Wolters.

'C.C.v.H.' (1922) 'Artikel 75 en 109 Regeerings-Reglement', *Indisch Tijdschrift van het Recht*, 114: 277–308.

Deventer, C.Th. van (1899) 'Een eereschuld', *De Gids*, 17(3): 205–57.

—— (1905) 'Rechtshervorming in Indië', *De Gids*, 23(1): 307–49.

Encyclopaedie van Nederlandsch Indië (1917–39), 's-Gravenhage: Nijhoff (8 vols).

Fasseur, C. (1988) 'Een vergeten strafwetboek', in W.C. van Binsbergen (ed.) *Handhaving van de Rechtsorde: bundel aangeboden aan Albert Mulder*, Zwolle: Tjeenk Willinck.

—— (1989a) 'Carpentier Alting, Johannes Hendrik', in J. Charité (ed.) *Biografisch Woordenboek van Nederland*, vol. 3, 's-Gravenhage: Instituut voor Nederlandse Geschiedenis.

—— (1989b) 'Leiden and empire: university and colonial office 1825–1925', in W. Otterspeer (ed.) *Leiden Oriental Connections 1850–1940*, Leiden: Brill.

Haar, B. ter (1939) *Beginselen en Stelsel van het Adatrecht*. Groningen: J.B. Wolters.

—— (1948) *Adat Law in Indonesia*, New York: Institute of Pacific Relations.

Historische Nota over het Vraagstuk van de Opleiding en Benoembaarheid voor den Administratieven Dienst (1900), Batavia: Landsdrukkerij.

Holleman, J.F. (ed.) (1981) *Van Vollenhoven on Indonesian Adat Law: selections from* Het adatrecht van Nederlandsch-Indië *(Volume 1, 1918; Volume II, 1931)*, The Hague: Martinus Nijhoff.

Hooker, M.B. (1975) *Legal Pluralism: an introduction to colonial and neo-colonial laws*, Oxford: Clarendon Press.

Kleintjes, P. (1927–29) *Staatsinstellingen van Nederlandsch-Indië*, 5th edn (2 vols), Amsterdam: De Bussy.

Korn, V.E. (1948) 'Adat law', in B.J.O. Schrieke (ed.) *Report of the Scientific Work Done in the Netherlands on Behalf of the Dutch Overseas Territories during the period between approximately 1918 and 1943*, Amsterdam: Noord-Hollandsche Uitgevers Maatschappij.

Kollewijn, R.D. (1948) 'De Adatrechtstichting (The Adat Law Foundation in Leiden)', in B.J.O. Schrieke (ed.) *Report of the Scientific Work Done in the Netherlands on Behalf of the Dutch Overseas Territories during the period between approximately 1918 and 1943*, Amsterdam: Noord-Hollandsche Uitgevers Maatschappij.

Lev, D.S. (1973) 'Judicial unification in post-colonial Indonesia', *Indonesia*, 16: 1–37.

—— (1985) 'Colonial law and the genesis of the Indonesian state', *Indonesia*, 40: 57–74.

Louter, J. de (1907) 'De wijziging van het Regerings-Reglement van Nederlandsch-Indië', *De Gids*, 25(1): 331–49.

—— (1929) 'De ontdekking van het adatrecht', *De Indische Gids*, 51(1): 655–68.

Ossenbruggen, F.D.E. van (1976) 'Prof. Mr. Cornelis van Vollenhoven als ontdekker van het adatrecht', in H.J.M. Maier and A. Teeuw (eds) *Honderd Jaar Studie van Indonesië, 1850–1950: levensbeschrijvingen van twaalf Nederlandse onderzoekers*, Den Haag: Smits.

Resink, G.J. (1974) 'Rechtshogeschool, Jongereneed, "Stuw" en Gestuwden', *Bijdragen tot de Taal, Land- en Volkenkunde*, 130: 428–49.

Snouck Hurgronje, C. (1893–95) *De Atjehers* (2 vols), Batavia: Landsdrukkerij.

Sonius, H.W.J. (1981) 'Introduction', in J.F. Holleman (ed.) *Van Vollenhoven on Indonesian Adat Law: selections from* Het Adatrecht van Nederlandsch-Indië *(Volume 1, 1918; Volume II, 1931)*, The Hague: Martinus Nijhoff.

Strachey, J. (1911) *India: its administration and progress*, 4th edn, London: Macmillan.

Supomo (1949) 'Prof. Mr. B. Ter Haar Bzn (9 Februari 1892–20 April 1941): herorientatie op het gebied van adatrechtpolitiek', in *Gedenkboek uitgegeven ter Gelegenheid van het Vijf en Twintigjarig Bestaan van het Rechtswetenschappelijk Hoger Onderwijs in Indonesië op 28 October 1949*, Groningen: J.B. Wolters.

Vollenhoven, C. van (1905) 'Geen juristenrecht voor den inlander', *De XXe Eeuw* (March): 1–42.

—— (1910) *Een Adatwetboekje voor heel Indië*, Leiden: Brill.

—— (1925) 'Juridisch confectiewerk: eenheidsprivaatrecht voor Indië', *Koloniale Studiën*, 9(1): 293–318.

—— (1928) *De Ontdekking van het Adatrecht*, Leiden: Brill.

3 Custom, that is before all law[1]

Peter Burns

In this chapter I am concerned with key issues in the history of *adatrecht*. The adatrecht idea was developed in the first half of the twentieth century by the Leiden School. This School was never tightly defined. Centred on the University of Leiden, it consisted mainly of Indologists (scholars interested in what was then the Netherlands Indies), academics (mainly legal academics and practising colonial lawyers) and administrators on furlough. Its members tended to identify custom (*adat*) with law (*recht*). I argue that this was a mistake in method which led ultimately to administrative sterility. In reality, the two concepts must be distinguished. Custom, nevertheless, is certainly relevant to law and can influence the development of law. I show this by reference to one of the traditional patterns of marriage which European colonialists discovered in Sumatra. I provide a brief summary of the history of the adatrecht idea, indicating the victories that it achieved in the 1920s and the limitations of the idea which started to emerge in the following decade. These limitations were intrinsic to the idea as originally formulated by Cornelis van Vollenhoven, the founding figure of the Leiden School. Van Vollenhoven conceived of adat and adatrecht as manifestations of a peculiarly Indonesian world view which was essentially alien to European – particularly Dutch – thought. Although he took great interest in the differences found among the various legal communities of Indonesia (of which he distinguished nineteen major groups), he also held that there were essential common elements which united them and at the same time set them apart from European legal institutions.

To illustrate the limited utility of this East–West dichotomy, I concentrate on one important point in the doctrine of the Leiden School with respect to land rights: the principle of *beschikkingsrecht* or 'right of allocation'. For years this was a central matter of dispute among Dutch colonial administrators and legislators, with Van Vollenhoven and the Leiden School arguing for the integrity and validity of the beschikkingsrecht principle. In what follows I show that one aspect of their argument, its emphasis on the holistic quality of beschikkingsrecht, does not bear close analysis. In addition, I discuss some aspects of the Leiden theory of customary criminal law which reflect similar and equally misleading forms of essentialism and

Orientalism.[2] Finally, I suggest that the ineffectuality of the Leiden approach might have been avoided had the judiciary followed the suggestion of another Dutch legal scholar, Barend ter Haar, by adopting a principle of precedent (on the pattern of the Common Law) as a means by which courts could transform custom into law. At a time when adat has again come under consideration as a basis for local rights and obligations, Ter Haar's proposal may still have relevance today.

Law, custom, and the state

Cornelis van Vollenhoven (1874–1933), the founder of the Leiden School and of the discipline of adatrecht studies at Leiden University, unequivocally identified adat, the conventions of Indonesian community life, with *recht*, a word conventionally translated into English as 'law'. I offer an antithetical interpretation, that adatrecht was a Dutch invention. And I distinguish custom from law. I maintain that communities can function without the institution of law: to speak or write of 'informal law' in such communities is simply to contradict oneself. In stateless societies, custom functions to organize and to moderate social behaviour. Custom can have legal significance: it may contain the material that is made into law. But law itself, I maintain, is essentially explicit: it depends on the existence, within the society, of some third party – superior and disinterested – who or which functions to resolve conflicts in that society and, acting in that role, to make plain, to its members, the obligations to be observed, and the opportunities to be enjoyed.

Although adatrecht as such was a Dutch construction, many authentic customs did acquire legal significance under Dutch rule. An example is the Sumatran institution of *jujur* marriage.[3] Jujur, bride-giving marriage, was widespread in Sumatra, mirroring the parallel institution of *semendo* or groom-giving marriage. The paramount consideration of custom in the districts which practised one or both of these arrangements was the location of the continuing family. To preserve the family line in its district, spouses of the one gender or of the other had to be brought – or bought – in to take up domicile with the enduring family and maintain the gender balance among its members. In exchange the recipient family would pay the donor family a bride price (jujur) or (under semendo) a groom price, the amount of which was negotiated between the two families.[4]

Some colonial observers, both English and Dutch, disapproved of jujur marriage. Wink (1926: 30) opposed it because high bride prices made for late marriage, and so allegedly inhibited the growth of the population. Perelaer (1914: 456) claimed that in the Lampung region bride prices, which were paid to the bride's father, had been set so high that there were 'many unmarried girls of twenty or thirty – yes, even forty – years old'. Marsden (1975: 273) suggested that jujur increased the incidence of polygamy. Another eighteenth-century observer complained that jujur gave rise to endless

litigation (Marsden 1975: 225). Later critics noted that jujur marriage allowed the bride no freedom of choice, and often led to unhappiness and suicide (Wink 1926: 36). Jujur marriage, then, was a highly problematic institution in Dutch eyes. Should the colonial government attempt to abolish it, or recognize it in law and attempt to reform it? Or should the Dutch refrain from interfering in what was obviously a time-honoured popular institution?

Jujur is an example of a genuine custom which under stateless conditions served many of the same ends that law serves in state societies and which, with the arrival of a colonial state, automatically acquired legal implications. Nevertheless, the differences between custom and law do not end with the issue of state enforcement. Another difference is that law is formal. It tends towards the explicit – either in its detailed formulation of code and statute or in the minute distinctions it draws between cases in search of precedent. Custom, by contrast, may be observed by the members of a community without being made explicit. It would be a mistake, according to my analysis, to assert that custom becomes law by a process so gradual that the change is imperceptible. The change is quite discrete and, like mutation in the theory of evolution, it is always in principle detectable.

Some customs may be too weak, in their original context, to acquire legal significance under state conditions. Stateless communities, however traditional, are seldom without any plurality of opinion or scope for innovation. Early in his career Van Vollenhoven distinguished between adatrecht and adat in general (Josselin de Jong 1948: 5) but in his later and better known work, as already noted, the two concepts became interchangeable. The idea that custom is itself a form of law, and that it is in folkways that the essence of law is most clearly manifest, has remained influential in more recent times, particularly in the Netherlands (Griffiths 1986; Remie and Strijbosch 1981). Historically this idea was associated with the theory of the 'organic state', as propounded in the second half of the nineteenth century by many European intellectuals – among them the legal scholar Jacques Oppenheim, Van Vollenhoven's mentor through his undergraduate years (see Bourchier, Chapter 5, in this volume).

In a society where law operates, the role of the judge is formally separated from the roles played by the legislator, by the administrator and by the enforcer. Court sittings are governed by formal rules of procedure. The courts characteristically work to minimize differences in status between persons and to achieve predictability in their decisions (on this see Hart 1961: 27–8, 134–5). A community governed by custom, by contrast, lacks codes, courts, and records of cases. It has neither police sanctions nor any identifiable sovereign institution or person. It has no formal rules of procedure. Instead, conflicts and problems are seemingly settled by informal convention or consensus.

Law, as I understand it, is an indispensable ingredient of the state: the concept of a territorial polity having sovereign jurisdiction within its

boundaries is necessarily married to an apparatus of courts which publish putatively predictable decisions. If the state is the sovereign, then law is the sovereign's consort. The problem of adat (or, in other emergent post-colonial polities, of custom) becomes significant only in the process of state formation. As I have argued elsewhere (Burns 2004: 249–51), the adat(recht) ideology was certainly significant in the process of state formation: it offered a sacred myth of national identity to Indonesians in their struggle for independence. But adatrecht, of itself, was impotent; it could not mutate spontaneously into material for the practical administration of a national state.

After this analytical excursion, let us return to the problems created by the institution of jujur. How much of the convention known as jujur was to be regarded as law? How much should the colonial state interfere? To what extent would justice be infringed if this long-established institution were to be terminated? Did not the Sumatran peoples concerned – the Rejang, the inhabitants of Lampung, and others – have some sort of right to practise jujur? On questions such as these Van Vollenhoven and his followers opted either for non-interference or for gradual facilitation of change. Above all, they opposed the forcible replacement of indigenous institutions by alien (Dutch) institutions. In their view, law – recht – was something like a plant. Even when cultivated, it could best be allowed to develop along its own natural bent. A major consideration here was that a practice such as jujur could not be viewed in isolation. Adat, in the understanding of the Leiden School, formed a seamless web, an integrated whole. Changing one part of it would have inevitable and perhaps disastrous consequences for the whole. How, for instance, would the institution of semendo respond to the abolition of jujur? Would it survive? And what would be the flow-on consequences for the conventions of inheritance? For family property? In view of uncertainties like these, it was argued, colonial administrators were best advised to show respect for adat and adatrecht as a whole.

Underlying the orthodox Leiden doctrine was a concept of law (*recht*) as a given people's version of justice: something to be discerned, through diligent study, in the assumptions and the practices of that people. Against this I would offer an antithetical understanding of law – and of the state – which derives, albeit at some remove, from the social contract theory set out by the seventeenth-century English political philosopher Thomas Hobbes. Hobbes's theory establishes a rational basis for state authority – and for the obedience of the subject or citizen to that authority – starting from the material human situation, without reference to supernatural forces or metaphysical entities (Hobbes 1996). 'Rights' are treated not as pre-existing entitlements which the legislature or courts should recognize but as discretionary privileges awarded – or revoked, or withheld – by the sovereign state.[5] Without a sovereign, in this view, all talk of rights is meaningless.

At a later stage in the history of social contract theories, in 1690, another English political philosopher, John Locke, made an attempt to reserve some particular rights as 'inalienable' after all: that is, to place them beyond the

scope of any agreement which human beings might negotiate for the sake of benefits (mutual protection or security of agreements, for example) offered by the state. Among these inalienable rights was the right to property. Under the teaching of Locke, no sovereign holds absolute power and no state can take away the subject-citizen's property without his approval. This concept of limitation was similar to an old one which had survived the intellectual turmoil of the European Renaissance and Reformation. During Christendom's early encounters with the non-European world, the Iberian jurist Francisco de Vitoria and the Dutch jurist Hugo de Groot (Grotius) were already concerned about, and committed to, the rights of pagans (whether Incas or Javanese) *vis-à-vis* European colonizers (see Hooker and Villiers 1988: 28–30).

The relevance of this history for our purposes becomes clear when we consider the following statement of legal principle by the twentieth-century Dutch jurist Ter Haar (1951: 325):

> It is a construction long since abandoned, that the establishment of a new authority should wipe out all existing law [*recht*] . . . No one has ever claimed that the Indonesian communities [*gemeenten*] were extinguished upon the establishment of Dutch authority and . . . not restored until 1854.[6]

In the 1990s the Australian High Court brought down judgements (Mabo, Wik) which meant that Australian Aboriginal people could exercise legal rights – native title – over certain lands. There are two ways of looking at these judgements. The first view would interpret the judgements of the court as recognition of real, but neglected or forgotten, rights which had been established long before the beginning of colonial government. The second view is more complicated: that the findings of the court established effective law prospectively, but that this required retrospective validation in the form of a myth of legal continuity. For most practical legal purposes, it is a matter of indifference which of the two views is adopted. But in the context of the present discussion a key question is whether rights, or the law, should be taken as given, or whether human beings should seek consensus – general agreement – as a pathway to legal order. Does a piece of land, for instance, belong exclusively and perpetually to members of a particular family? And, if that family ceases to exist inasmuch as all its members are dead, is it impossible now that the land in question should belong to anyone? Or can society now take it over and allocate new rights to it on a consensual basis?

The analysis devised by Hobbes was meant to establish, and then to satisfy, the paramount need of the people of any polity to feel confident about the law. Citizens need to know whom they must obey, and to what rules or conventions they should conform, in order to lead satisfactory lives. The long history of elaborations of the social contract idea, of which Locke's was the first, shows that the quest for legal certainty is eternally frustrated

because, as formulations of legal matters become easier to understand, they also become simplistic. That is to say, they leave less room for the complications of the hard cases. Simple formulae often fail to satisfy the public's sense of justice.

The public sense of justice is the basis of the very different concept of law associated with the German Romantics' Legal-Historical School (*Rechtsgeschichteschule*), and in particular with Karl Von Savigny. Von Savigny (1814) taught that each system of law (*Recht*) was specific to a given people (*Volk*, nation). A good part of the teachings of the Rechtsgeschichteschule reflected the judgement that it was naive and counter-productive to search the statutes of the sovereign state hoping to find the law. The followers of this school abandoned codification – the instrument of the state – as a dead letter, and instead sought the law (*Recht*) in the practices of the people (*Volk*) identified by that law. This teaching influenced Van Vollenhoven in his career-long dedication to the study of custom and legal values among the peoples of the Indies.

Beschikkingsrecht: custom or construct?

In line with the approach of the Rechtsgeschichteschule, Van Vollenhoven searched the copious data compiled by conscientious colonial officials, government commissions, scholars and missionaries, looking for distinctively national – that is to say, Indonesian – features. In adat, he believed that he had found them. At the core of his teaching, and his public polemics, lay the doctrine of beschikkingsrecht or 'right of allocation'.[7] This, he claimed, was a distinctive set of indigenous rights over land, an amalgam characterized by six features which, he claimed, emerged from the disinterested investigation of authentic, autonomous communities within the Indonesian legal-cultural area. It was detectable in (at the very least, the history of) almost all of the 19 customary law areas (*adatrechtskringen*) into which he had divided that legal-cultural area. The 19 areas were roughly in accord with the major linguistic and ethnic divisions of Indonesia. 'Almost nowhere' in Indonesia, according to Ter Haar (1939: 55), were communities to be found which manifested no evidence of the right of allocation: 'perhaps on the Banggai Islands, perhaps among the Ngada of Flores'. Having registered these acknowledged exceptions, the reader can now consider the claim that otherwise, beschikkingsrecht 'manifests itself in one form or another pretty well all over the Archipelago' (Van Vollenhoven 1909: 27).

> [These] adat restrictions must, of course, have been thought out and proclaimed at some stage, . . . perhaps by the villagers themselves? – [or] through unwritten regulation? – [or] by superior authority? . . . Yet it remains rather odd that in an era devoid of [modern] means of transport . . . , printing presses or newspapers, throughout the whole of Java (it might be said: the whole of the Indies), those restrictions were

> apparently as uniform in tenor and content as military regulations dispatched from a single command centre.
>
> Van Vollenhoven (1919: 8)

In order to understand beschikkingsrecht, it is first necessary to understand another concept: *rechtsgemeenschap*, rendered in English by Holleman (1981: 43), whose usage I shall follow here, as 'jural community'. The jural community was either a kin group, a territorial group, or a mixture of both. Each adat law area (*adatrechtskring*) comprised many jural communities, all conforming more or less to its basic conventions. The members of a jural community followed those conventions as a distinctive lifestyle, and as a system fulfilling most of the functions which in other types of community would have been performed by the law.

The six characteristic features of beschikkingsrecht as defined by Van Vollenhoven were first specified in his 1909 booklet *Miskenningen van het Adatrecht*, or 'Misevaluations of *adat* law' (Van Vollenhoven 1909: 19–20). They can be summarized as follows.

1 *Community competence with respect to undeveloped land*. The jural community and its members may make free use of virgin land within its territory. Such land may be brought under cultivation, or it may be used to establish a village, or it may become common land for gleaning or for other purposes.
2 *Use of community land by outsiders*. Other parties may make similar use of the land, provided always that they have received the permission of the jural community: unpermitted use constitutes a trespass.
3 *Payment for use of community land*. Members of the jural community may – but outsiders will – be required to pay some charge or to give some gratuity as an acknowledgement for such use.
4 *Community competence with respect to land under cultivation (reserved power)*. The jural community retains in greater or lesser degree a residual right to intervene in the disposal of lands which have already been brought into use.
5 *Collective (territorial) responsibility with respect to outsiders*. In the absence of any other party that might be held accountable, the jural community makes good any loss or damage or harm suffered by outsiders on its territory.
6 *Perpetuity of community rights*. The jural community is not competent to surrender these rights absolutely.

Beschikkingsrecht became the central issue of debate through the two decades which followed the publication of *Miskenningen van het Adatrecht*. A senior departmental adviser on agricultural policy, G.J. Nolst Trenité, led the counterattack launched against Van Vollenhoven's ideas by members of the Dutch government and the colonial bureaucracy. The document

commonly known as the *Domeinnota* (Nolst Trenité 1916) asserted the superior right of the Dutch colonial administration to administer and allot the lands of Indonesia for development by outsiders. Traditional indigenous claims and conventions, in the view of Nolst Trenité and his numerous supporters, were a minor consideration. This debate eventually polarized around schools of thought based in two Dutch universities: Leiden, where Van Vollenhoven worked and his views prevailed, and Utrecht, where they were opposed (Burns 2004: 15–41, 67–89).

In 1918 Van Vollenhoven, by extraordinary industry and a magnificent display of cogent academic argument, was instrumental in frustrating a government plan for a parliamentary act to remove from rural Indonesian communities such protection as previous metropolitan laws had, at least in principle, offered them in matters of land use (Burns 2004: 22–41; Jonkers 1930: 46–7). The ensuing debates raged through the 1920s in academic journals, and even in the national press. The conflict was at times bitter and personal (Burns 2004: 77–89). Nevertheless, Van Vollenhoven and his disciples (the Leiden School) had established their discourse. This was evident in two developments during that decade which can be regarded as recognitions of, or even victories for, the adatrecht ideas.[8] In 1925, firstly, the advocates of adatrecht managed to secure the revocation, in new constitutional provisions, of the 'repugnancy principle'. This meant that in contrast to the previously existing situation, adatrecht might apply even where it seemed to be in conflict with a generally recognized principle of equity and justice: that is, judges in the relevant courts were no longer bound to make their decisions by reference to the norms of the Netherlands (Burns 2004: 95). In 1927, secondly, European and Indonesian members of the *Volksraad* (People's Council), stimulated by the arguments of two 'Leidenaars' resident in Indonesia (Logemann 1927; Ter Haar 1951), raised the issue of the beschikkingsrecht and moved for a government enquiry. In 1928 an Agrarian Commission was accordingly formed and charged with the task of deciding whether it would be desirable in principle to abandon the established 'domain principle', whereby uncultivated or undeveloped land automatically belonged to the state rather than to indigenous communities. The composition of the commission was favourable to the Leiden School (Burns 2004: 103–4), and as expected its findings were adverse to the domain principle and positive with regard to beschikkingsrecht. With this second victory, by 1930 the supporters of beschikkingsrecht felt they had achieved a paradigm shift in the discourse concerning law for the Indonesian peoples. There was a greater chance now that the courts of the Netherlands East Indies would recognize indigenous rights in their decisions.

Despite this achievement, adatrecht in the last decade of Dutch rule in Indonesia lapsed into comparative ineffectuality. That the adatrecht project ran into a kind of dead end had to do with the methods and doctrine of law which Van Vollenhoven had espoused and expounded to his followers. Before expanding on this, I want first to examine closely one particular

feature of the beschikkingsrecht to show that, despite all the defences offered for the general principle in the colonial debates, it was not reliable. I shall then also allude to another major Leiden theory, that of *adatstrafrecht* or 'adat penal law', which under close testing likewise proves to be less solid than its Leiden exponents liked to claim.

Van Vollenhoven had insisted that the amalgam of principles which constituted the right of allocation was a private law matter. Against Van Vollenhoven, I would contend that the informing components of beschikkingsrecht, to the extent that they had the character of law, were public rather than private in nature. I suggest that the various jural communities – be they kin groups, descent groups, or territorial settlers' associations – were, in their several autonomies, nascent village democracies or republics. Van Vollenhoven, for several reasons, could not concede this. To start with he was, as Daniel Lev (1984: 153) has observed, antipathetic to the idea of the contractual sovereign state. For him, the nation was constituted of the people, by the people. The institutions of the state (its civil service, its executive and its legislature) were, all of them, unavoidably artificial. For him a nation was, by definition, 'natural', innate – a collectivity to which people belonged by right of birth. In any case, Van Vollenhoven accepted the Dutch overseas empire as a *fait accompli* and found it disloyal to the realm to endorse national independence as the goal of the colonized peoples. Temperamentally unsuited to the role of revolutionary, throughout his life he remained an ardent Dutch patriot – notwithstanding the accusations of his opponents at Utrecht University and in the imperial establishment.[9]

Nevertheless, the various forms of competence which he attributed to jural communities resemble those powers which might be manifest in emerging polities – communities evolving towards sovereign statehood. The dominant say over matters of land rests with the community; the community can assign land and it can interfere in the use made of that land. And it can revoke any previous allocation, whenever neglect or misuse of land might prompt such an initiative. The community also accepts responsibility for the security of outsiders present on its territory. If this last element were recast in the discourse of the fully developed sovereign territorial state, it would be expressed in terms of diplomatic conventions of respect and protection for foreign citizens under international law.

It is important here to appreciate that the Leiden School doctrine distinguished two types of corporate responsibility (Roest 1941: 82). The obligation to outsiders was based, according to the right of allocation doctrine, on considerations of territory. It was not to be confused with the *adat tanggung-menanggung*, which referred to the sharing of responsibility, within the family or kin group or community, for debts owed by any of its members. Nor was territorial accountability on a community basis to be confused with any kind of collective responsibility imposed by an external authority, such as a sultan or a colonial governor.

Van Royen's challenge

An important empirically based challenge to the idea of a pan-Indonesian beschikkingsrecht as defined by Van Vollenhoven was provided in 1927 by J.W. van Royen, a colonial administrative officer on furlough, in his Leiden dissertation (1927). This was a study of the land and water rights of the *marga* (here a community unit defined in purely territorial terms) in Palembang, one of the four sub-divisions of the adatrechtskring of South Sumatra.[10] Although Van Royen identified himself with the Leiden School in opposition to that of Utrecht, his thesis contained a challenge to the right of allocation concept as Van Vollenhoven had spelled it out. I believe that Van Royen saw his work as an enriching addendum, presenting details from one particular locality to enhance the tapestry of academic knowledge. Nevertheless his approach differed significantly from that of Van Vollenhoven, who had presented the beschikkingsrecht as a unitary concept, a constituent of an archipelagic, Indonesian identity. Van Royen, by contrast, argued in his thesis that the pattern of uses with regard to land ought properly to be considered as incidental and developmental, rather than as vestigial or imperfect conformations to an original or underlying pattern.

The features which Van Vollenhoven had identified as defining beschikkingsrecht were not found everywhere even within the South Sumatran adatrecht area. The Kubu people, for instance, were not peasants but hunters and gatherers, and in their case the right of allocation concept had no applicability. A related group, the Anak Laitan, had shifted to sedentary farming only in the nineteenth century, and here too it was not reasonable to talk of the discovery of an age-old beschikkingsrecht (Burns 1978: 120–1). Van Royen next turned to the Rejang. This was a people with a more established farming economy, yet no record of a Rejang right of allocation could be found in Van Royen's primary historical source, the 1811 edition of Marsden's meticulous *History of Sumatra* (1975). Among other groups, however, Van Royen did concede the existence of customs approximating to the right of allocation formula. This was the case, for instance, in the Kepungutan lands near the port city of Palembang (Burns 1978: 127).

Overall, Van Royen believed that the phenomena understood by Van Vollenhoven as components of beschikkingsrecht were not reflections of an ethnic *Weltanschauung* but consequences of demographic and economic changes – population growth or immigration, and increasing commercial demand for agricultural products – which had the effect of raising the value and scarcity of land. Summarizing his findings, Van Royen concluded:

- that the beschikkingsrecht 'bundle' had neither always nor everywhere existed in a single form;
- that beschikkingsrecht had developed in response to economic circumstances; and

- that beschikkingsrecht had never been sovereign law, and was better characterized as civil law.

In the last part of his analysis, Van Royen turned to the fifth component of the right of allocation bundle, corporate (territorial) responsibility. This principle offers the temptation to analysis in terms of public law or sovereignty. Van Royen found that the Kubu admitted no claims concerning anything which happened on their lands, and the Anak Laitan accepted no liability for damages or claims for compensation for offences committed by unknown persons within their districts (Van Royen 1927: 148). The corporate responsibility which Van Royen discovered among the Rejangers, from his reading of Marsden, was genealogical rather than territorial. That is to say, when an infringement of the adat occurred, the question of who should make good was not: 'On whose land did the offence occur?', but rather, 'To whom is the offender related?' In Pasemah, likewise, a system of mutual responsibility, *tanggung-menanggung*, did operate for the resolution of conflict, but again more on a genealogical than on a geographical basis (Van Royen 1927: 150–1). Reijnst (1838) had attested to five of the six beschikkingsrecht principles in the Kepungutan lowlands, but not that of territorial responsibility. Inasmuch as he regarded Reijnst as a reliable reporter, Van Royen found this a significant omission.

By a comparative study of putatively authentic collections of indigenous South Sumatran statutes as compiled by Van den Berg (1894), Van Royen showed that various government interpolations had been inserted among the *aturan* (regulations) at various stages. One law dating from 1854, for instance, referred to the offences of robbery and murder 'on the public highway' (Van den Berg 1894: 161). But in the hinterland of Palembang in the 1850s, there was not yet anything which could properly be designated as a 'public highway'. Clearly, Van Royen argued, a creative administrator had been at work here; this law had not emerged from popular tradition and was not genuine adat according to the Leiden understanding.

Van Royen discovered another anomaly in a different early collection (Gersen 1873: 124). Preceding clauses had specified the dusun as the collectivity from which compensation or redress should in the first instance be sought. Only after it became clear that the dusun would not, or could not, provide a satisfactory resolution of a problem case might creditors or claimants have recourse to the marga, the wider community. Article 23 in this collection, however, specified the marga as the forum of both first and final instance. In the past, Van Royen wrote, the practice had been to call on the prime suspects to affirm their innocence under oath. In the 1873 edition, however, the arrangement was significantly and suddenly altered. Now, if the corpse of the victim of a murder was discovered in the marga forest, every member of the marga was required to take the oath. Van Royen (1927: 154–5) judged that these stipulations were not genuine adat

but administrative expedients designed to secure order in places beyond the policing competence of the central governing authority.

Having traced such changes in local regulations and determined that they reflected a series of government responses to improvements in transportation and the consequent extension of horizons for the communities concerned, Van Royen concluded that:

> there can be no question of a connection between the right of allocation and the principle of territorial responsibility. As it manifest[ed] itself in Palembang, the right of allocation did not originate from a single archetypal law. Rather, it was . . . a complex of discretely developed or imported measures.
>
> Van Royen (1927: 159)

Van Royen's study of South Sumatra, then, already seems to punch a significant hole in Van Vollenhoven's idea of beschikkingsrecht as an integral and pan-Indonesian legal phenomenon. But what about the other eighteen adatrechtskringen? The most appropriate place to begin looking for an answer is surely the relevant volume of Van Vollenhoven's own *magnum opus*, *Het Adatrecht van Nederlandsch-Indië* (1918).

Collective responsibility: Van Vollenhoven against himself

What follows is a summary, by adatrechtskring, of references in *Het Adatrecht van Nederlandsch-Indië* to the principle of collective responsibility, the fifth component of beschikkingsrecht. In *Kring* (Area) II, the Batak Lands (the hinterland of North Sumatra), the village or village alliance accepted collective responsibility (Van Vollenhoven 1918: 243). For Kring III, Minangkabau (West Sumatra), collective responsibility operated 'only at the level of the allocation area' (Van Vollenhoven 1918: 269–70). Although *tanggung-menanggung* (mutual responsibility) was often mentioned, there had been no systematic investigation of this convention. South Sumatra (Jambi, Palembang, Bengkulu, Lampung) made up Kring IV. Van Vollenhoven (1918: 286) claimed that collective responsibility existed here but Van Royen, as we have seen, called its territorial basis into serious question as far as a large part of this adat area was concerned. For Kring VII, Borneo, there was collective responsibility for the safety, but not the property, of travellers in the district. At the boundaries, this responsibility was transferred from one tribe to the next (Van Vollenhoven 1918: 324). For the tenth kring, the Toraja lands in upland South Sulawesi, collective responsibility was limited to debts and fines incurred by fellow villagers. There was no question of making good losses suffered by outsiders on village territory. In Ambon (Kring XIII) the situation was apparently similar (Van Vollenhoven 1918: 369, 421).

Timor, in the southeast, was Kring XV. Here there was no mention of accountability for unresolved crimes within the allocation area, although in Central Timor there were other forms of collective responsibility for homicide or theft (Van Vollenhoven 1918: 453). In the sixteenth kring, comprising Bali and Lombok, the jural communities accepted the principle of collective responsibility for whatever might happen to outsiders in the forest, the undeveloped parts of its territory. No responsibility was recognized for the unlucky foreigner who might have met with misadventure in the irrigated rice fields (Van Vollenhoven 1918: 502). The seventeenth kring was the Javanese language area, and here collective responsibility was accepted. Sometimes the status of marginal land would become a matter of dispute between, or among, different jural communities. It was evident from the case reports that on occasions one or another of the communities would readily accept responsibility for a crime committed by an unknown person. It was all a matter of where the crime had taken place. If it had happened on the land under dispute, then the unhesitating assumption of accountability by one community would establish clearly that that tract fell within that community's right of allocation. On other occasions, a community would forfeit a parcel of land after the discovery of a corpse in, for instance, the forest (Van Vollenhoven 1918: 651). Instead of accepting liability, the jural community would withdraw its claim to the disputed forest territory.

The last kring was Sunda (West Java). Apart from a single case at Cirebon (where the Sundanese and Javanese areas meet), here there was no mention of collective responsibility (Van Vollenhoven 1918: 753). For the remaining adatrecht areas – numbers one (Aceh), five (Malay – eastern Sumatra and the Malay peninsula), six (Bangka and Belitung), eight (Minahasa), nine (Gorontalo), eleven (South Sulawesi), twelve (Ternate), fourteen (New Guinea) and eighteen (the Central Javanese principalities) – the evidence was even less substantial: in the relevant sources there was 'no talk', 'no report', 'no mention', 'nothing', 'no data', or 'the data were uncertain' (Van Vollenhoven 1918: 217, 307, 309–10, 350, 353, 382, 392, 429, 690–1).

In his formulation of the doctrine, Van Vollenhoven had suggested that the telltale principles of beschikkingsrecht were manifest just about all over the Indies. Yet, when he came to close examination of one of them, the evidence was, to say the least, patchy. Even as an argument by induction, involving the accumulation and persuasive presentation of positive evidence, the case for an Indonesia-wide principle of collective territorial responsibility is unconvincing. Yet I would apply a sterner test by asking whether it is possible to conceive of empirical data which would count as evidence that the theory is unreliable.[11] And if so, are such data indeed available? Subjected to this criterion, Van Vollenhoven's theory does not fare well. At least one of the phenomena identified by Van Vollenhoven as elements of a pan-Indonesian beschikkingsrecht does not seem to have been universally manifest across the archipelago.

Reasonable doubt

Another teaching of the Leiden School concerned the contrast between European criminal law and adatstrafrecht, or Indonesian customary penal law. The central concern of the Dutch criminal code is *mens rea*, guilty intent, and the function of the law is to provide appropriate punishment (Burns 2004: 111–14). In the case of Indonesian adat, according to the Leiden teaching, punishment is not a leading principle. Instead, the adat world view takes primary cognizance of the fact that something wrong had happened and that there is a need to put it right, to redress a disturbance in the balance of the metaphysical world order. In order to understand the dynamics of adatstrafrecht, Leidenaars such as Lesquillier (1934) argued, it was necessary to discard the concept of punishment and to replace this with the idea of *reactie*, which I have rendered in English as 'adjustment' (Burns 2004: 111).

In the last years of uncontested Dutch rule in Indonesia, however, Jacob Roest devoted a doctoral thesis to the question of guilt in Indonesian adatstrafrecht and concluded that the idea of rightful punishment for wrongful behaviour was not after all alien to adat law. Although elements of 'adjustment' were certainly involved in many adat verdicts, guilt, and sometimes intention, were also taken into account (Roest 1941: 166). The standard Leiden doctrine insisted that Eastern and Western mentalities were fundamentally different, and that adat penal law could be understood only in the light of this difference. Yet ultimately, the Leidenaars' legal Orientalism was as insecurely founded as their insistence on the all-Indonesia character of beschikkingsrecht.

To show that Van Vollenhoven made mistakes, some will object, is to judge him by the wrong gauge: his real achievements were to bring about a 'paradigm shift' (Kuhn 1962) in the study of law in Indonesia, and to stand up for some of the basic rights of Indonesia's indigenous peoples. That his emphasis on the value and specificity of autocthonous Indonesian legal institutions was inspired by the German Rechtsgeschichteschule does not necessarily detract from either achievement. But be that as it may be, it is reasonable to say that, since Van Vollenhoven's paradigm shift, the Leiden adatrecht doctrine has been challenged by another discourse. This is not its old rival, the domain doctrine associated with Utrecht University. It is rather the retrospective consensus of more recent scholars, both Indonesian and foreign. I cite a selection of their most salient comments:

> In the broadest sense, though van Vollenhoven was extremely well versed in the European legal-historical school, he found in Indonesia only what he, as a European reacting against the individualism and formalism of European law – especially its Romanized civil law – was looking for. He was essentially searching for certain primordial elements in ancient European customary law, such as had existed among the Germanic

> tribes before they were conquered by the Romans. In this light one can see that the exaggerations in his analysis and picture of Indonesian customary law were the results of his own personal ideals and sentiments; and that these ideals and sentiments were in their turn simply the manifestations of certain currents within one legal school flourishing in Europe at that time. But one can say that in Indonesia this was the beginning of a sort of romanticism of customary law. It was adulated for its wholeness and its subtle refinement in satisfying the community's sense of justice and feeling of mutual responsibility.
>
> Alisjahbana (1966: 71–2)

> The concept of *hukum adat* was almost certainly a Dutch creation. Before van Vollenhoven and his school began codifying what to Western jurists appeared to be the juridical aspects of native custom, adat law was not a separate and independent entity but was in most cases intertwined with the history, mythology and institutional charters . . . of each ethnic or cultural unit.
>
> Jaspan (1965: 252)

> Of course *adat* was not discovered but invented . . .
>
> Maier (1993: 64)

Finally, I would like to refer extensively to the account of adatrecht offered by J.C. Heesterman (1986). The history of ideas which Heesterman presents is, I concede, in large part an interpretation. It is, however, the most plausible that I have discovered. He suggests that almost all of those engaged in the study of Indonesian adat land rights started out from an assumption that any issue would in practice come down to an opposition: one legal person against another. That made the problem manageable, it seemed: one party right, the other wrong. But it was also an assumption which, as often as not, made the analysis simplistic and the solution unsatisfactory. In Java, for instance, a single parcel of land could be subject to multiple rights exercised by a whole series of people: monarch, apanage-holder, farmer, tiller, mortgagee, builders of irrigation works, participants in the harvest (Heesterman 1986: 191–3). Yet for members of the colonial bureaucracy, whose primary task was to collect taxes and balance the books, it seemed sensible to simplify.

When, in the course of colonial history, some Dutch missionaries, scholars, and idealists began to look seriously at indigenous practices, and to listen to indigenous grievances, they understood that simplification offered no solution. This insight was a stimulus which led eventually to the development of adatrecht studies. The trouble was, according to Heesterman, that the specialists of the Leiden School 'could not do much more than replace the faulty analysis with another concept of their own' in the form of the community beschikkingsrecht, a 'rather vague' idea the thrust of which was 'to emphasize the dominance of the community over the individual'

(Heesterman 1986: 192). Moreover for Heesterman, the village community itself – in many regions the putative *rechtsgemeenschap*, the competent legal person – was not an indigenous institution, but one brought into existence to meet the needs of government: 'the *desa* [village], as a territorially bounded and closed corporate body, is a colonial creation' (Heesterman 1986: 199). And if the indigenous bearer of the right of allocation turns out to have been created (for better or for worse) by the colonial government, how authentic can the right itself be?

Anyone who reads Van Vollenhoven in the hope of discovering an exact programme for legal development, or an inventory of what the master favoured or advocated in policy terms, will be disappointed. Van Vollenhoven believed that, if left to itself, native Indonesian law would find answers to the problems which it faced. It is easier to determine what he opposed than to specify the precise processes and institutions that he favoured. For the point is that there was no point. Van Vollenhoven favoured neither process nor institution. For him law itself was something live and 'organic', and as such could not be pinned down in terms of concepts such as sovereign law-givers, social contracts, nation-states, constitutions, separation of powers, codes, or due process. Rather, the law of a people was to be apprehended through learning – more accurately, through sympathetic assimilation of the legal values manifest in the social behaviour of the people in question. Wise and learned judges would be so in tune with the folk that they would deliver verdicts which the folk – all the interested parties – would acknowledge as appropriate. Would the convict, or the unsuccessful litigant, or the otherwise disadvantaged party, participate in this otherwise universal acclaim? In Van Vollenhoven's Utopian world order, the answer would be: 'Yes, perhaps.' While it cannot be shown conclusively that there never has been a working case of such a system, this does not strike me as a realistic proposition.

A more practical vision of how to implement adat law was developed after Van Vollenhoven's death by one of his disciples, Barend ter Haar. Referred to as the *beslissingenleer* or 'decision doctrine', this involved accepting as legal precedent the verdicts brought in for similar cases already decided within the same jurisdiction (presumably meaning, in the first instance, the same adatrechtskring). If such a system had been accepted and implemented gradually, an increasingly refined set of case law data could have served to achieve the transmutation of adat-as-custom into adat-as-law. Ter Haar's advocacy of the decision doctrine fell, for the most part, on stony ground.[12] The orthodox champions of adatrecht chose to abide by the stark message of Van Vollenhoven's (1933) warning essay, 'No jurists' law for the native'. That was a pity. Ter Haar's programme would have given to adatrecht the rigour required for the integration of the conventions of custom into the legal system of a state (either colonial or independent). The decision doctrine offered a method for achieving the transformation of popular convention and custom into law. It may yet work for the Republic of Indonesia in the twenty-first century.

Notes

1 The title is a quotation from 'A Defence of Rhyme' by Samuel Daniel (1562–1619). I found it apt partly because of the ambiguity of the word 'before', which can mean either 'antecedent to' or 'superior to'. The original verse by Daniel continues: 'Nature, that is above all art'.
2 I use the word in the sense given to it by Edward Said (1978).
3 Early descriptions of jujur can be found in the work of the eighteenth-century British observer Marsden (1975: 225–29, 257–60, 300). Hazairin (1936) gives a detailed account.
4 Defenders of the institutions of jujur and semendo would have objected to the terms 'bride price' and 'groom price' as implying too purely commercial a type of transaction, but I use them here for the sake of simplicity.
5 Under this doctrine it may well be convenient or prudent for a sovereign, when alternative policies seem likely to invoke riot or rebellion, to allow or recognize popular claims to 'rights'. The origin of such rights nevertheless lies in the will of the sovereign.
6 The first formal constitution for the Netherlands East Indies was created in 1854.
7 Translating the term *beschikkingsrecht* is a contentious business. As an English translation Holleman (1981: 43) used 'right of avail', but I prefer 'right of allocation'. Ter Haar (1951: 301) had serious doubts even about the term which is most often used to render *beschikkingsrecht* in Indonesian, *hak ulayat*.
8 There was also a third victory of sorts, which I discuss elsewhere (Burns 2004: 100–1), in the failure for practical reasons of certain initiatives by F.J.H. Cowan, Director of Justice in Batavia, to bring about limited legal unification with respect to co-operative societies, employment regulations, and (in connection with the prevention of child marriages) the age of consent.
9 Ironically given that his ideas had an important influence on Indonesian nationalism, Van Vollenhoven was careful to withdraw from association with explicit proponents of Indonesian independence.
10 The other three were Jambi, Bengkulu, and the Lampung districts.
11 This approach is based on Karl Popper's falsifiability principle (see, in particular, Popper 1961: 130–47).
12 Some judges did attempt, in the late 1930s, to apply the decision doctrine in individual cases. For the system to work, however, it must be adopted wholesale and engage the complete judiciary.

References

Alisjahbana, S.T. (1966) *Indonesia: social and cultural revolution*, Kuala Lumpur: Oxford University Press.

Berg, L.W.C. van den (1894) 'Rechtsbronnen van Zuid-Sumatra', *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië*, 43: 1–350.

Burns, P. (1978) 'Dutch fantasy or Indonesian reality: Van Royen's doubts about the *beschikkingsrecht* concept', *Kabar Seberang*, 4: 75–109.

—— (2004) *The Leiden Legacy: concepts of law in Indonesia*, Leiden: KITLV Press.

Gersen, G.J. (1873) 'Oendang-oendang of verzameling van voorschriften in de Lematang-Oeloe en Ilir en de Pasemah-landen van oudsher gevolgd en door langdurig gebruik hadat of wet geworden', *Tijdschrift voor Indische Taal-, Land- en Volkenkunde*, 20: 108–50.

Griffiths, J. (1986) 'Recent anthropology of law in the Netherlands and its historical background', in K. von Benda-Beckmann and F. Strijbosch (eds) *Anthropology of Law in the Netherlands*, Dordrecht: Foris.

Haar, B. ter (1939) *Beginselen en Stelsel van het Adatrecht*, Groningen: Wolters.

—— (1951) 'Het beschikkingsrecht der Indonesische rechtsgemeenschappen: II Het beschikkingsrecht in het adatrecht', and (with J.H.A Logemann) 'III Slotwoord', in *Verzamelde geschriften van Mr B. ter Haar Bzn*; *Eerste deel*, Djakarta: Kolff.

Hart, H.L.A. (1961) *The Concept of Law*, Oxford: Clarendon Press.

Hazairin (1936) *De Redjang: de volksordening, het verwantschaps-, huwelijks-, en erfrecht*, Bandoeng: Nix.

Heesterman, J.C. (1986) 'State and adat', in C.A. Bayly and D.H.A. Kolff (eds) *Two Colonial Empires: comparative essays on the history of India and Indonesia in the nineteenth century*, Dordrecht: Nijhoff.

Hobbes, T. (1996) *Leviathan*, R. Tuck (ed.), Cambridge: Cambridge University Press.

Holleman, J.F. (ed.) (1981) *Van Vollenhoven on Indonesian Adat Law: selections from* Het Adatrecht van Nederlandsch-Indië *(Volume I, 1918; Volume II, 1931)*, The Hague: M. Nijhoff.

Hooker, M.B. and Villiers, J. (1988) 'The laws of Portugal and Spain', in M.B. Hooker (ed.) *The Laws of Southeast Asia, Volume II: European laws in Southeast Asia*, Singapore: Butterworth.

Jaspan, M.A. (1965) 'In quest of new law: the perplexity of legal syncretism in Indonesia', *Comparative Studies in Society and History*, 7: 252–66.

Jonkers, A. (1930) 'Het adatgrondenrecht in openbare beraadslagingen (1870–1928)', *Adatrechtbundels*, 33: 31–51.

Josselin de Jong, J.P.B. de (1948) *Customary Law: a confusing fiction*, Amsterdam: Indisch Instituut.

Kuhn, T.S. (1962) *The Structure of Scientific Revolutions*, Chicago, Illinois: University of Chicago Press.

Lesquillier, N.W. (1934) *Het Adatdelictenrecht in de Magische Wereldbeschouwing*, Leiden: IJdo.

Lev, D.S. (1984) 'Book review: C. van Vollenhoven and Indonesian adat law', *Journal of Legal Pluralism*, 24: 147–55.

Logemann, J.H.A. (1927) 'Het beschikkingsrecht der Indonesische rechtsgemeenschappen: II Mr Nolst Trenité's parlementaire geschiedschrijving', *Indisch Tijdschrift van het Recht*, 125: 380–457.

Maier, H.M.J. (1993) 'From heteroglossia to polyglossia: the creation of Malay and Dutch in the Indies', *Indonesia* 56: 37–65.

Marsden, W. (1811, reprint 1975) *The History of Sumatra*, 3rd edn, Kuala Lumpur: Oxford University Press.

Nolst Trenité, G.J. (1916) 'Nota gedageteekend Weltevreden 29 Maart 1912 over "Het Recht van den Staat op den grond in de Rechtstreeks Bestuurde Buitenbezittingen van Nederlandsch-Indië" ', in *Agrarisch Reglement voor de Residentie Sumatra's Westkust; Vastgesteld bij de Ordonnantie van 15 Januari 1915, met toelichting*, Batavia: Landsdrukkerij.

Perelaer, E. (1914) 'De adatrechtspraak in de Residentie Palembang', *Koloniaal Tijdschrift*, 3: 451–71.

Popper, Karl R. (1961) *The Poverty of Historicism*, 2nd edn, London: Routledge.

Reijnst, J.C. (1838) 'Iets over het Inlandsch bestuur in de binnenlanden van Palembang', *Tijdschrift van Neërland's Indië*, I: 258–67.

Remie, C. and Strijbosch, F. (eds) (1981) *Afscheidsalbum Geert van den Steenhoven*, Nijmegen: Faculteit der Rechtsgeleerdheid, K.U.

Roest, J. (1941) *Het Schuldvraagstuk in het Adatstrafrecht van den Indischen Archipel*, Leiden: Dubbeldeman.

Royen, J.W. van (1927) *De Palembangsche Marga en haar Grond- en Waterrechten*. Leiden: Van den Berg.

Said, E. (1978) *Orientalism*, London: Routledge and Kegan Paul.

Vollenhoven, C. van (1909) *Miskenningen van het Adatrecht: vier voordrachten aan de Nederlandsche Bestuursacademie*, Leiden: Brill.

—— (1918) *Het Adatrecht van Nederlandsch-Indië*, vol. I, Leiden: Brill.

—— (1919) *De Indonesiër en Zijn Grond*, Leiden: Brill.

—— (1933) 'Geen juristenrecht voor den inlander', in *Het Adatrecht van Nederlandsch-Indië*, vol. III, Leiden: Brill.

Von Savigny, F.C. (1814) *Vom Beruf unsrer Zeit für Gesetzgebung und Rechtswissenschaft*, Heidelbeurg: Mohr und Zimmer.

Wink, P. (1926) *De Onderafdeeling Lais in de Residentie Bengkoeloe*, 's Hage: Nijhoff.

4 Custom and koperasi

The co-operative ideal in Indonesia

David Henley

No idea, or ideal, has united political elites in Indonesia like that of the co-operative society: an economic institution in which the users of its services are also its owners (members), uniting to pool their resources and skills in pursuit of common goals. Before independence, credit and retail co-operatives were actively promoted for decades by the Netherlands Indies government via its Department of Agriculture and its Popular Credit Service, yet also embraced by all of the important Indonesian nationalist organisations, from Budi Utomo through Sarekat Islam to the Partai Nasional Indonesia (Djojohadikoesoemo 1941). Not for nothing did J.H. Boeke (1884–1956), adviser to or coordinator of the Credit Service from 1914 to 1929 and also perhaps the most internationally influential of all Dutch Indonesia scholars, describe the co-operative movement as 'the area in which the government in its highest aspirations can work together with the nationalist movement in its most constructive activity' (Boeke 1929: 167). Today the name most closely associated with the co-operative movement in Indonesia is of course that of *Bapak Koperasi* ('Father of the Co-operatives') Mohammad Hatta (1902–80), the country's first vice-president and the principal author of Article 33 of the 1945 constitution, according to which 'the economy shall be organised as a co-operative endeavour based on the principle of family life'.

The co-operative ideal was strongly endorsed both by President Sukarno and by his successor Suharto, who as a young army officer had already encouraged the establishment of co-operatives among his troops, and who as president repeatedly echoed Hatta in asserting that the co-operative was 'the best economic form for Indonesia', a form which 'in the long term . . . must become the central pillar of our economy' (Elson 2001: 55, 64, 211). Throughout the period since independence this enthusiasm for co-operatives has continued to be shared, at least in principle, in the most diverse political quarters. Before its destruction in 1965 the Indonesian Communist Party, while rejecting the idea of a co-operative-based economy as the ultimate goal of economic policy, endorsed state-sponsored workers' and farmers' co-operatives as a means of promoting popular welfare and class solidarity during the transitional period prior to the overthrow of capitalism (Aidit 1963). Under the New Order, Hatta's co-operative ideal

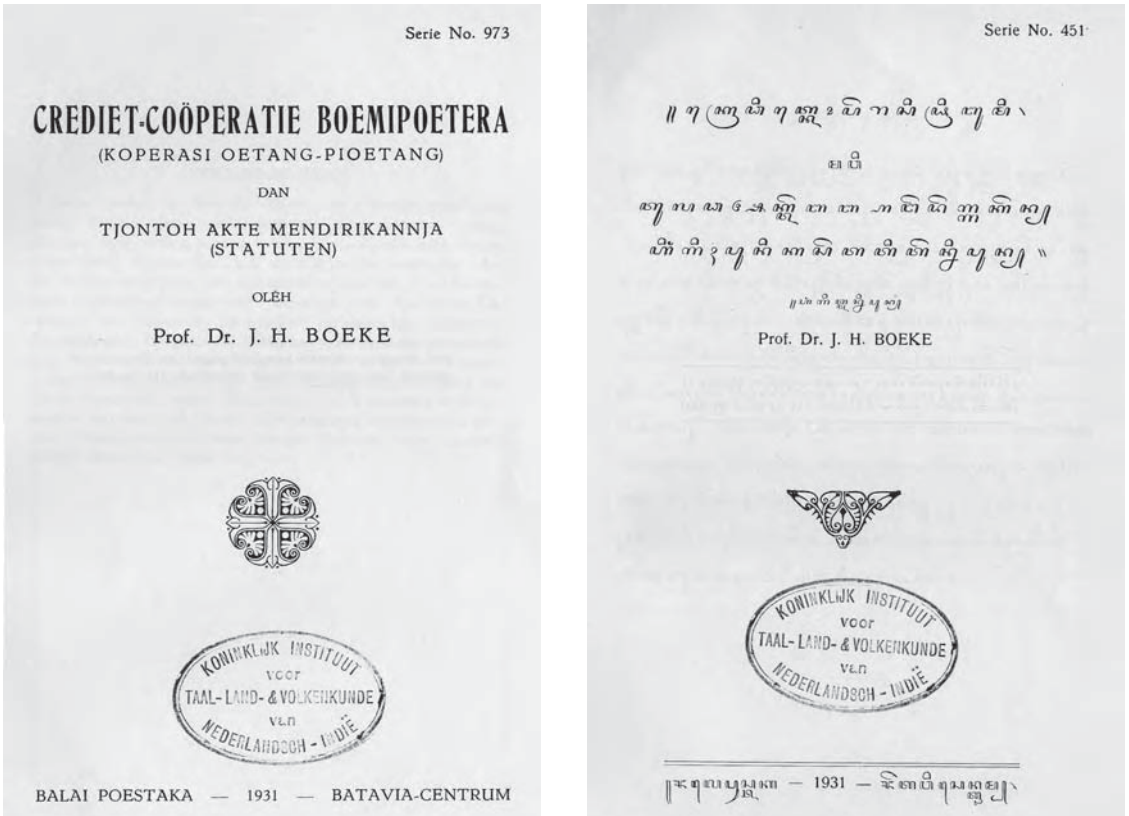


Figure 4.1 Title pages of a 1931 handbook by J.H. Boeke, in Malay (left) and Javanese (right), on the establishment and management of credit co-operatives

was held up by moderate intellectual critics of the establishment, albeit often in conjunction with criticism of the existing state-sponsored co-operatives system, as a counterweight to what was seen as an ever closer alliance between the state and big business (Rahardjo 1981, 1985, 1995, 1997). Since the fall of Suharto its defenders have strenuously, and so far successfully, resisted attempts to amend Article 33 of the constitution (Mubyarto 2001).

The unfading dream

Yet behind all this official and intellectual enthusiasm lies a deep irony: despite continuous support from all governments and most other political organizations over a period of more than a century, co-operatives in Indonesia have consistently failed to achieve either economic viability or sustained popularity among the public at large. Apologists, it is true, have always been able to point to a few examples of long-standing and successful businesses operating on a co-operative basis: the Bumiputra mutual insurance company, for instance (Mubyarto 1988: 79–91), or the Kosti Jaya taxi co-operative in Jakarta (Suyono et al. 1996: 221–7). Some of the many small informally organized *simpan pinjam* (savings and credit) associations in Indonesia resemble co-operatives in possessing a relatively permanent fund of collectively owned capital and assets, and if these were included in the co-operative category the picture might appear somewhat rosier. But they too have serious problems (Lont 2002: 118–19, 130–62, 175), and all in all the entry on co-operatives in Cribb's *Historical Dictionary of Indonesia* (1992: 100) does not exaggerate when it concludes that 'most co-operatives have been racked by inefficiency and corruption and the history has generally been depressing'.

Most of the prewar co-operative ventures, certainly, vanished without trace within months of their establishment. In 1939 there were still only 574 registered co-operative societies in the Netherlands Indies with some 52,000 members, fewer than one in every thousand of the population (Djojohadikoesoemo 1941: 88). After independence, thanks largely to Hatta's commitment, co-operatives received redoubled emphasis in government policy and by 1960 there were almost thirty thousand of them, with a total membership of close to five million (Edilius and Sudarsono 1993: 54). Very few, however, represented any degree of spontaneous or sustainable self-organization; most were the result of state or party patronage and existed simply to take advantage of the cheap state credit, subsidies, priority access to scarce goods, and monopolistic trading privileges which that patronage made available. Egbert de Vries, a Dutch agronomist working in Indonesia who had been sympathetic toward the co-operatives during the colonial period, described their counterparts in the early postwar years as 'almost 100 per cent ficticious' (Van der Eng 1991: 48).

During the New Order, which established thousands of Koperasi Unit Desa (KUD, Village Unit Co-operatives) and made these a cornerstone of

its agricultural extension policies, the story was little different. In so far as the KUD functioned at all, it was usually as a channel for the redistribution of state funds, the accumulation of a national buffer stock of rice, and the reinforcement of local political elites (Hoadley and Hoadley 1996; Vatikiotis 1998: 54). In many cases they came to exist only on paper, having illicitly sold off their formal functions to professional traders (Suyono et al. 1996: 250). In 1995, on the morning following National Co-operatives Day (12 July), the *Jakarta Post* minced no words in an editorial on co-operatives and their relation to a new government programme to promote small businesses and local entrepreneurship.

> The fact that the nationwide entrepreneurship drive was started on Co-operatives Day serves as a reminder to us that the co-operative movement, which is supposed to be the backbone of our economy and the training ground for entrepreneurs in the countryside, has disappointingly remained largely the extension of the bureaucratic machinery. More than 44,885 primary co-operatives have been set up throughout the country. An impressive record it may seem. But if those co-operatives are stripped of official largesse and government sanctioned business deals they will be reduced mostly to organizations of bureaucrats and opportunists who are affiliated with local officials.
>
> *Jakarta Post*, 13 July 1995

Many big business organizations in Indonesia, of course, also depended heavily on official largesse, but it remained an embarrassment to the defenders of the co-operative sector that, even with intensive state support, its share in national GDP was still only four or five per cent (Baswir 1997: 250; Ismawan 1997: 74). From the point of view of membership things appeared slightly better: at the end of the New Order period some twenty million of Indonesia's two hundred million people were members of registered co-operatives. Of these, however, ten million belonged to the discredited KUD, over three million to civil service and armed forces co-operatives, and another three million to co-operatives serving the employees of specific state-owned or private sector business corporations. Almost one-third of all members, moreover, belonged to co-operatives officially classified as 'non-active' (Departemen Koperasi 1999: 2, 8).

Yet hope, where co-operatives are concerned, seems to spring eternal, and many argued that, if the co-operatives were freed from the coddling and corrupting embrace of the state, they would at last fulfil their potential in the form of a genuinely popular movement. In 1998, accordingly, the ban on co-operative organizations other than the KUD in village areas was lifted, and efforts made to remove other bureaucratic obstacles to the establishment of new co-operatives on local initiative. If for Suharto co-operatives had belonged in the category of 'directed collectivist solutions' (Elson 2001: 70) to economic problems, after his fall supporters of a

continuing role for them in the Indonesian economy have stressed that they are by definition voluntary organizations operating primarily on the basis of their own resources, and that state involvement in the co-operative sector is best restricted to legal and educational support (Anoraga and Sudantoko 2002: 114–18; Hudiyanto 2002: 163–72). By most accounts, nevertheless, the growth in the number of co-operatives which has taken place since 1998 is still largely a result of government intervention, albeit now in the more subtle form of measures to promote 'partnerships' between co-operatives and other business enterprises, including state-owned corporations. As in the past, many of the new co-operatives have been short-lived, inactive, or simply fictitious. On Co-operatives Day in 2003, editorials and opinion pieces in the national newspapers once again lamented the familiar shortcomings of the co-operative movement while continuing to express an almost millenarian faith in its eventual triumph.

> The vision of Bung Hatta, who hoped that the co-operatives would become a pillar of the national economy, has not yet been realized in its entirety. But this does not mean that it cannot be realized. We feel certain that with determination and professional management, backed up by a conducive business environment, co-operatives in Indonesia will yet be able to rise up out of their malaise and take their place on an equal footing alongside other economic actors.
>
> *Sinar Harapan*, 12 July 2003

Where, after a century of disappointment, does this faith, obligatory and rehearsed though it may often appear, keep springing from? Some of the answers, clearly, are specific to recent history and circumstances. Under the New Order the ideologically sanctioned topic of co-operatives, like that of environmental protection, provided opportunities for intellectuals to express political views which the authorities might otherwise have found subversively left-wing. Both then and in the reformasi era, it must also be noted, published celebrations and defences of co-operatives in Indonesia have often been written by authors whose livelihood, directly or indirectly, depends on the co-operative sector, the institutional momentum of which is much stronger than its economic momentum. But this does not yet explain how either the institutional or the ideological importance of the co-operatives originated.

Indonesia's early confrontation with predatory capitalism in the form of the Dutch East India Company, and the subsequent appropriation of much of its commerce by European and ethnic Chinese interests, meant that, when the Indonesian nationalist movement made its appearance, large parts of it were inevitably anti-capitalist as well as anti-colonial in spirit. Against this background, the ideas of European (and later Indian) co-operative movements appealed to non-communist nationalists as a non-capitalist 'bridge toward economic democracy' (Hatta 1957: 53). Under Suharto the Indonesian state, like its colonial predecessor, effectively embraced both international

capital and Sino-Indonesian big business while remaining uncomfortably aware that this was at odds with a large section of public opinion, with the nationalist spirit which it claimed to have inherited, and indeed with the constitution. 'Politically', as Vatikiotis (1998: 56) puts it, 'the state could not afford to abandon its commitment to co-operatives . . . and other public displays of disdain for capitalism triumphant'. When, in 1990, Suharto publicly proposed that major business conglomerates should share their wealth by transferring a quarter of their assets to co-operatives, many commentators dismissed this as a theatrical way of defusing public criticism (particularly from Islamic quarters) of the extent to which the benefits of economic development were accruing to the (Chinese) rich (Vatikiotis 1998: 157–8).

But if the intent behind this gesture was pragmatic, the specific form which it took surely reflected a deeper conviction. Far from regarding Suharto's consistent interest in co-operatives as a cynical strategy to deflect attention from his personal and political links with big business, his biographer Elson (2001: 210) describes it as 'almost childlike attachment'. Besides the weight of nationalist tradition, the wellsprings of this widely shared attachment include a specific view of Indonesian society and the Indonesian national character, as it has been in the past and should be in the future, which counterposes Indonesian 'collectivism' to the European 'individualism' on which capitalism is based. The history of the collectivist ideology, which can be characterized as both Orientalist and Utopian, is closely linked with that of the study and interpretation of Indonesian adat (custom) and adat law (*adatrecht*) in the early twentieth century. Nevertheless Orientalist and Utopian impulses, as well as the paternalism which characterized state sponsorship of co-operatives under Sukarno and Suharto, were already associated with the co-operative movement at its beginnings shortly before the close of the nineteenth century.

The seed and the soil

On home leave in the Netherlands in 1897, the colonial civil servant W.P.D. de Wolff van Westerrode (1857–1904) attended an agricultural congress at which much enthusiasm was expressed for 'Raffeissen banks', co-operative farmers' credit associations pioneered in Germany in 1849 on the initiative of a country town mayor of the same name. If such co-operatives had succeeded in improving the economic situation of Prussian peasants raised in a tradition of 'every man for himself and God for us all', reasoned De Wolff (1898: 35, 106), how much more successful might they not be in a society 'which, where it has not been distorted and dislocated by Western influences, is based on the principles of equality and solidarity'.

> As an Indies civil servant I naturally found my thoughts wandering not to Raiffeisen's Westerwald, but over the oceans to the green villages of Java. Might a seed sown there by a Raiffeisen of the Indies not find the

> soil at least as favourable, even as if specially prepared for it? Should colonial policy not be oriented in this direction, instead of toward developing the native's sense of individuality? . . . In truth the Javanese . . . possess a spirit of solidarity which would make the mouths of contemporary Western economists water – a precious seed which only requires protection, nuturing, and developing to raise Javanese society to what the most progressive among them would regard as an ideal level.
>
> De Wolff van Westerrode (1898: 36–7)

Two years earlier a small savings and loans bank had been established in his regency of Purwokerto in Central Java, apparently on the joint initiative of the local aristocrat and the previous Dutch assistant resident, with the aim of protecting Javanese civil servants and chiefs from the usurious interest rates charged by (Chinese) moneylenders (Djojohadikoesoemo 1941: 11). Very loosely following the Raffeissen model, the function of this bank was now extended under De Wolff's direction to include the provision of credit, in cash or in unhusked rice, to farmers. Security on these loans took the form of mutual guarantees provided by each member of a small group of borrowers. An explicit principle of the new 'Purwokerto Savings, Mutual Assistance and Agricultural Credit Bank' was that it 'would have nothing to do with Foreign Orientals' (De Wolff van Westerrode 1898: 40). The bank was not itself a co-operative: its users (borrowers) were not automatically its owners (shareholders). But it was intended to pave the way for further developments in that direction. In the long run, De Wolff (1898: 105) envisaged, the *desa* or village community itself would become 'a co-operative society which manages its own finances and assists its members with loans, at first in paddy, later perhaps also in cash'. In an attempt to initiate this development directly, he and his colleagues also organized the establishment of 250 *lumbung desa* or 'village rice barns', each under the management of a committee consisting of the village's headman, clerk, and Islamic religious leader, plus two 'well-to-do inhabitants' chosen by a district religious official (Besseling 1919: 13). These *lumbung* were intended to form the basis for an integrated co-operative credit system with the Purwokerto bank at its centre (Djojohadikoesoemo 1941: 14).

As evidence that Javanese village society was uniquely suited for development in such a direction, De Wolff (1898: 106) cited the construction of irrigation infrastructure, bridges and guard posts in rural areas by means of unpaid collective labour, and the use 'for every possible kind of work' of reciprocal labour exchange (*sambat*, *soyo*), which he regarded as the expression of a 'still rather powerful feeling of solidarity'. The same practices, of course, would later become central to the ideology of *gotong-royong* or 'mutual help' which Indonesian nationalists used to generate national pride and revolutionary solidarity, and Indonesian governments after independence to generate obedience to the state and its projects (Bowen 1986). The term *gotong-royong* itself apparently became popular only after Sukarno used it

to characterize the essence of the future Indonesian state in his famous 'Birth of Pancasila' speech on 1 June 1945. But it is already mentioned in earlier nationalist literature (Pané 1943: 7) and under other names, traditional forms of mutual help certainly began to play an important part in nationalist thinking well before the Second World War. Hatta, for example, linked them both with the national character, and with the idea that co-operatives were the modern economic form most appropriate to that character, in 1932 (Ingleson 1979: 167).

> It is true that 'collectivism' is a Western term, but it refers to something which is the very basis of our own existence. Our people, of course, are well accustomed to living as parts of a collectivity. Deeply rooted in our people is the idea of equality [*persamaan*]. If a villager wants to build a house, carry out some work in a rice field, or is struck by a sudden disaster, then it is not necessary for him to employ labour for the work. Instead he is assisted by his fellow villagers. In short, the basic principle of our society is mutual assistance [*tolong-menolong*]. Our new economy must be organised on this principle, according to which we work together for our mutual needs and advancement.
>
> Hatta (1953: 129)

In some ways, Hatta conceded, the Indonesian village was not collectivistic enough for modern (socialist) purposes, since although there was often communal ownership of the means of production (land), production itself was always based on individual (household) units (Hatta 1953: 92). He also believed that because gotong-royong was a form of purely 'social' co-operation inspired by a spirit of solidarity and 'performed without regard to exact economic calculations', it would have to be complemented by a calculating new spirit of 'individuality' (something which was 'far from easy to develop' among Indonesian villagers) before economic co-operation of the type embodied in formal co-operative organizations could be successful (Hatta 1957: 3–4, 32). Solidarity, nevertheless, remained important, and in this respect co-operatives could and should build on the legacy of traditional social co-operation. The foundations of the Indonesian co-operative movement, Hatta explicitly argued in 1963, lay in adat and indeed in adat law, which was subject to historical change but continued to embody the collectivist spirit of the past.

> The way in which society is organized is reflected in the unwritten law of adat. The changes which gradually take place in adat law reflect changes in how people live . . . So far, however, the spirit of collectivism is still alive in Indonesian society. The process of individualization will continue . . . but the aim of Indonesian socialism is to retain the collective spirit as its foundation . . . On the foundation of the old social co-operation we will build a new economic co-operation, in which the

> individual will have the freedom to take initiative on the basis of common agreement and common needs.
>
> Hatta (1963: 20)

The 'national capitalists' on whom some other politicians placed their hopes, Hatta believed, would inevitably be subordinated or crushed by their richer, more experienced, and more individualistic foreign rivals. When it came to solidarity, by contrast, Indonesians possessed a comparative advantage, and this could be exploited by means of the co-operative movement. Ultimately, Hatta's ideal in the 1950s and 1960s was the same as De Wolff's had been in the 1890s: to transform the village itself into a mutual benefit co-operative society. 'Village and co-operative', he enthused, 'would become one and the same', and the whole nation a 'commonwealth of co-operatives' working together to 'eliminate all competition' (Hatta 1963: 22).

In support of his assertion that co-operation and collectivism were intrinsic to adat, Hatta cited two short but very influential prewar publications (both of them professorial inaugural addresses) by scholars of adat law: F.D. Holleman's *De Commune Trek in het Indonesisch Rechtsleven* (The communal trait in Indonesian legal life, 1935) and Soepomo's *De Verhouding van Individu en Gemeenschap in het Adatrecht* (The relationship between individual and community in adat law, 1941). The founding and central figure of the adatrecht school, Cornelis van Vollenhoven (1874–1933), had been a highly empirical scholar (albeit not a field researcher) whose prolific work contains only occasional and passing references to the 'communal trait' (Van Vollenhoven 1918–33, I: 541, 641; II: 751). Apart from emphasizing that adat was a valid alternative to European law as a basis for local jurisdiction, and identifying collective control of land as a recurrent feature of Indonesian customary law, his own writings seem to have made little direct contribution to the collectivist ideology. But others, including Holleman, who succeeded him as professor of adat law in Leiden in 1935, and above all Soepomo, his most influential Indonesian student, were more prepared to generalize. Under their influence adat law, and by extension Indonesian tradition in general, came to be stereotyped as systems focusing more on the good of 'the community as a whole' than on upholding divisive individual rights. The consequences for Indonesia's subsequent political development have been well described by Bourchier (1996): the intellectual legacy of the adatrecht school nourished the idea and sanctioned the legitimacy of an 'organic' or 'integralistic' state which in practice could only be authoritarian. In a similar if less sinister way, it also inspired and legitimized the co-operative ideal.

From affinities to extremes: co-operatives and the 'dual economy'

The failure of most co-operatives or quasi-co-operatives in practice had of course put the co-operative ideal under pressure right from the beginning.

Many of the lumbung desa set up on De Wolff van Westerrode's initiative in the Purwokerto area, for instance, collapsed almost immediately, by his own account as a result of corruption among the village committees charged with their management (Besseling 1919: 13–15). In accordance with the paternalistic Dutch colonial principle which Furnivall (1939: 389) memorably summed up as 'let me help you . . . , let me show you how to do it, *let me do it for you*', the government responded by abandoning the attempt to promote lumbung desa and village banks as autonomous institutions, placing them instead under direct state control and subjecting them to regular compulsory inspection. In Garut (West Java), a philanthropic credit bank was established in 1898 which resembled a co-operative more closely than its Purwokerto counterpart in that loans were available only to members who paid a regular contribution. It was found, however, that many members used their credit to lend on to non-members at higher interest, or resigned their membership as soon as they no longer needed a loan. Again, the Dutch reaction was to restructure the bank along less participatory lines (Cramer 1929: 22). In 1908, enthusiasm for co-operatives during the first congress of the Javanese nationalist organization Budi Utomo led to the establishment in many places of *toko aandeel* or 'share shops', retail or consumer co-operatives selling everyday goods on a profit-sharing basis. All, however, disappeared within a short period as a result of 'inexpert planning, lack of loyalty on the part of the members, maladministration and suchlike' (Djojohadikoesoemo 1941: 26).

One logical response to such experiences was simply to discard De Wolff van Westerrode's assumption that Indonesian village society was a conducive environment for a modern co-operative movement, and admit that co-operatives in Indonesia were exotic and fragile Western imports. This, of course, was easier for Europeans to accept than for Indonesians. One of the first to accept it, ironically, was the theorist of collectivism and future co-operative propagandist J.H. Boeke. Before he left the Netherlands for Indonesia in 1910, Boeke had already decided that Indonesian 'communism', which he saw mainly in terms of collective ownership and limited economic needs rather than communal labour and mutual help, was not to be confused with 'joining together in co-operative societies or other forms of co-operation [*samenwerking*]'.

> The term 'joining together [*aaneensluiting*]' already indicates a prior situation of autonomy. Joining together is something done by people who have already learned, in the course of their struggle to make a living, that as individuals they are unable to satisfy their needs adequately, and who therefore co-operate with like-minded others in an attempt to promote their common welfare. Some are of the opinion that the natives too may be induced to such co-operative action, or even that this will enable them to leapfrog the capitalist stage of development entirely. These expectations, however, seem overdrawn . . . The co-

> operative organizations which have appeared here and there often result not from the convictions of their members but from the efforts of the banks, without the protective and coercive hand of which the co-operative might prove inappropriate to the level of development so far reached by the population.
>
> Boeke (1910: 94–5)

That co-operative and adat principles differed fundamentally from each other was to be the official standpoint of the Popular Credit Service during and after Boeke's years as its coordinator (1919–29). 'When regulating co-operative activity', states the final report of a commission set up under his chairmanship in 1920 to investigate what role co-operatives should play in Indonesia, 'one must be fully conscious of giving to the native population something which is still essentially alien to it' (Boeke et al. 1921: 4). The 'communal village', wrote another leading figure in the credit service, Th.A. Fruin (1938: 170), 'is not suitable soil in which to grow that form of co-operative organization which has arisen in the individualized Western social structure and been adapted thereto'. Besides being based (at least in principle) on voluntary participation by free individuals, whereas traditional solidarity allegedly rested on blind collective obedience to age-old rules, it was emphasized that most types of co-operative also dealt with money, trade, and the quest for profit, all of which were supposed to have intrinsically corrosive effects on the subsisence-oriented village community and its adat (Cramer 1929: 239). Co-operatives, in other words, belonged firmly in the modern, commercial sector of what Boeke (1930) famously called Indonesia's 'dual economy'.

> Co-operation is not communal but corporate; it is western, the progeny of capitalism, and based on money economy and exchange. It has no connection with the village economy, with tradition and everyday village life. That which unites villagers co-operatively is the very thing which puts them beyond the pale of the village community.
>
> Boeke (1953: 34)

Like Hatta, Boeke (1910: 97–8) recognized that adat was not immutable. His intention in promoting co-operatives in Indonesia was to channel the inevitable process of change and 'individualization' into a socially constructive and economically productive form of 'auto-activity' (Boeke 1923). Unlike Hatta, however, Boeke and his colleagues did not believe that existing traditions would be of any help in this endeavour.

But if the realization that the co-operative ideal was less compatible with tradition than some had expected did not lead to the abandonment of that ideal, neither did it lead to a reassessment of tradition itself. Indeed, drawing a sharper distinction between modern economic institutions (including co-operatives) on the one hand, and traditional village society on the other, meant portraying the latter in even more stereotypical terms. In an official

handbook published in 1931 to introduce Popular Credit Service personnel to 'the economics of indigenous society in the Netherlands Indies', organic metaphors with fascist overtones are used to describe the village community and the role of adat within it.

> The families constitute the village community not as gravel forms a heap, but as cells form a plant . . . Each family is part of the greater village organism, and must take this fact into account . . . if the organism is not to be torn apart . . . The communal authority which ensures this is expressed in the shared legal or moral values [*rechtsopvattingen*] of the villagers, in the customs which must be followed in order to avoid incurring their disapproval, contempt, or even enmity. These customs constitute what is called adat.
>
> Fruin (1931: 15–16)

One chapter of the same booklet – as if in anticipation of 'The communal trait in Indonesian legal life', Holleman's inaugural lecture as professor of adat law in Leiden four years later – is entitled 'The communal trait [*commune trek*] in village life'. Probably the vision of traditional Indonesian society found in this and other publications on credit, co-operatives, and the dual economy fed back into, and reinforced, that produced at the same period by adat law scholars. Certainly it belonged to the same ideological complex of Orientalist collectivism.

Calculating reciprocity or 'flame of togetherness': unresolved contradictions

In late colonial times, then, academic orthodoxies lent support, if not always to the articulation between co-operatives and adat, then at least to the collectivist characterization of adat on which it was based. After independence, however, this became less and less the case. By the end of the 1980s one scholar could even describe the 'present point of view on Javanese society' as one in which 'Javanese villages nowadays, and, to some lesser degree, even in the past, are peopled by ruthless individualists and (proto-) capitalists' (Schweizer 1989: 276). The origins of this reaction lie in the 1930s with the work of Dutch agricultural extension officers and researchers who studied labour exchange practices and other forms of co-operation among Javanese farmers in the field, and who came to the conclusion that the distinction between 'social' and 'economic' behaviour was much less absolute than Boeke had claimed (Van der Kolff 1936; Vink 1941: 78–87). 'There were absolutely no "Boekians" in the field!', De Vries later recalled (Van der Eng 1991: 43). Indeed, casual observations of profit-seeking and individualistic behaviour among Indonesians in agriculture, trade, and small industry during the 1930s were already sufficient to cast doubt in many minds on the existence of a 'dual economy'.

> Again, one is impressed by the avidity with which Natives in Java, as elsewhere in the East, have seized on the opportunity given them by the petrol-engine to set up in business on a small scale with taxis and motor-buses. One must recognize that a superficial survey by an outsider carries little weight in comparison with the intimate knowledge of native life possessed by Dutch students, who know it almost from the inside and can see below the surface; yet these circumstances make it difficult, except in deference to their authority, to acquiesce in their view as to the absence of the economic motive in the native community.
>
> Furnivall (1939: 455–6)

Nevertheless it took a long time before the implications were fully appreciated even in academic circles. This was partly because sustained economic growth in the Indonesian countryside did not begin until the establishment of political stability and a broadly market-friendly institutional environment at the end of the 1960s. Some of the ideas popularized by Boeke, meanwhile, were given a new lease of life after independence by Geertz in his influential book *Agricultural Involution* (1963) and later by Scott in *The Moral Economy of the Peasant* (1976). An important milestone, however, was the publication of field research on '*gotong-royong* practices' carried out in two Central Java villages by the Indonesian anthropologist Koentjaraningrat in 1958 and 1959. Koentjaraningrat found that except for spontaneous help offered by neighbours following a death in the family, contributions to essential public works, compulsory corvée labour, and the collective maintenance of ancestral graves, all other observed forms of mutual assistance (for instance in agriculture, housebuilding, and the preparation of feasts) were based on the principle of reciprocity: help was always given (to an individual or household rather than a group or institution) on the expectation of receiving a commensurate return favour (from the same individual) in the future. In many cases the reciprocal debts involved, and even the benefits of labour exchange as a system in comparison with the employment of wage labour, were calculated with businesslike precision (Koentjaraningrat 1961).

These results were later made known among educated Indonesians by Koentjaraningrat's popular writings, including a 1973 newspaper essay entitled 'Apakah *gotong royong* itu sebenaryna?' which was also included in Koentjaraningrat's book *Bungarampai Kebudayaan, mentalitet dan pembangunan* (1974: 59–63). Nevertheless textbooks on agrarian economics and co-operatives published under the New Order, although often careful to make a clear distinction between gotong-royong and koperasi, continued to do so on the old *a priori* basis of individualization and monetization (Baswir 1997: 7; Mubyarto 1988: 74). The use of the term gotong-royong in relation to co-operatives, which had reached an apogee in the early 1960s (Suradjiman 1966), did decline. Whereas in 1967 the first New Order law regulating co-operatives still declared that the underlying principles (*azas*)

of these institutions in Indonesia were *kegotong-royongan* together with *kekeluargaan*, the 'principle of family life' (Law 12/67, art. 5), the updated law passed to replace it in 1992 mentioned only the *azas kekeluargaan* (Law 25/92, articles 1 and 2). Probably, however, this reflected the associations of gotong-royong with Sukarno and Guided Democracy more than it did any deep change in official thinking about co-operatives. In propaganda relating to the state-sponsored co-operatives, a direct connection continued to be made both with the romance of village life and with specific traditional forms of economic co-operation.

> The village is not just a place of scenic beauty, with its winding streams, its *sawah* and *ladang*, and the green forest on the surrounding hillsides. More than that, it is the dictionary in which our ancestors first defined the term *gotong royong* and lived it out from generation to generation in the clear drops of sweat from their daily labours. The *subak* of Bali, the *mapalus* of North Sulawesi, the *lumbung desa* of Central Java, the *lumbung nagari* of West Sumatra, and the *marsiadapari* of North Sumatra are but a few of the groups [*kelompok*] in the villages which have lived since ancient times in the spirit of *gotong royong*, *kekeluargaan* . . . and renunciation of individual interests. It was this flame of togetherness [*kebersamaan*] which was to ignite the spirit of the co-operative [movement] in our country.
>
> Tjakrawerdaja, Pasaribu and Budiyana (1993: 26)

Recently a former director-general of the Department of Co-operatives, citing Francis Fukuyama's book *The Great Disruption* (1999), has argued on a more sophisticated note that the continuity between gotong-royong and modern co-operatives in Indonesia lies in the social capital – 'that is, the system of norms and values which make it possible for people to co-operate' – which both embody and generate (Soedjono 2002: 283–4).

From reciprocity to common property: the problem of trust

If gotong-royong in practice is based largely on the economic calculations of self-interested individuals, and if co-operatives (at least in principle) are associations of rational individuals co-operating in pursuit of economic benefits, then why has Indonesian rural society proved such an unsuitable soil for the co-operative seed? Part of the answer lies in the problems which rational individuals inevitably face when engaging in forms of collective action which require them to place trust in one another. One feature of co-operatives which is substantially alien to village society is that they almost always possess some form of permanent corporate capital: money and moveable goods which are the common property of all their members, but which on a day-to-day basis must be entrusted to a smaller number of individuals to manage in the name and the interests of the collectivity.

Of the five types of 'group' listed in the New Order government publication quoted above as examples of traditional gotong-royong, two, *mapalus* and *marsiadapari*, are typical labour exchange groups formed on a temporary basis to work together on the fields of each member in turn on the basis of strict reciprocity. A third, the *subak* or 'irrigation society' of Bali, has a more strongly institutionalized existence through time, but, apart from a temple in which its members perform joint rituals, it too lacks property held in common. The two types of community *lumbung* or rice barn, by contrast, consist precisely of such common property. But the *lumbung desa* of Java, as we have seen, was a colonial innovation, and the same is true of the Minangkabau *lumbung nagari*, which dates from 1906 (Groeneveld 1913: 195). That these could be regarded in the 1990s as traditional institutions is not surprising given that in 1919 the lumbung desa was already reported to have become part of village adat (Besseling 1919: 12).

Collective insurance or credit institutions involving a common fund, as Popkin (1979: 47) observed in *The Rational Peasant*, his counterthesis to Scott's *The Moral Economy of the Peasant*, were originally rare in village Southeast Asia, and in peasant societies in general, at least partly because of the problem of finding people (even elected village heads) who could be trusted not to abuse them for personal purposes. In rural Indonesia collective ownership of moveable property has been restricted largely to kinship groups, and in some places it is not found even within the nuclear family (Li 1996: 269; 1998: 681). In the case of land, collective ownership – or at least, a collective 'right of avail' or *beschikkingsrecht*, as Van Vollenhoven called it – was indeed a common feature of Indonesian customary law. The immobility and visibility of land, however, make it far less susceptible than other types of common property to individual alienation or abuse. If a barn full of paddy is more vulnerable in this respect, the risks are even greater when the common property consists of money, which is uniquely portable and concealable (Popkin 1979: 47). It is striking that in the *arisan* or rotating savings and credit association (ROSCA), which does deal with cash and which Geertz characterized as a 'middle rung' in economic development between 'traditionalistic forms of social relationship' and the commercial economy, the whole kitty brought together at each periodic meeting is immediately disbursed to the member whose turn it is to receive it, so that 'no one has to be trusted to hold cash belonging to anyone else for any length of time' (Geertz 1962: 262). Jay (1969: 416), working in Central Java in the 1950s, called this 'an exceedingly practical provision in village society'.

The more sophisticated *simpan pinjam* or accumulating savings and credit associations (ASCRAs) now found in urban areas do in principle possess a corporate capital, but in the one studied by Lont (2002: 110) in Yogyakarta practically the whole of this capital was still lent out between meetings. The problem of trust, Lont observes, has proved a fundamental obstacle to the development of such organizations into mutual insurance funds.

> Emergency funds, unlike ROSCAs and ASCRAs, work with full funds between meetings, funds that have to be kept in custody. During meetings, participants can quite effectively check on the work of the treasurer, but it is less transparent what he does with the money between meetings. The funds can become prey to fraudulent and swindling treasurers. Indonesians are well accustomed to the idea that each and everyone will try to take something for himself, as soon as he gets the opportunity, an awareness that their whole society is imbued with. It appears to be a major reason for minimising contributions to emergency funds.
>
> Lont (2002: 281)

In the case of the lumbung desa and the village credit banks later set up to complement them, the problem of personal abuse of common property (often motivated, of course, by personal obligations to relatives and associates rather than by personal greed) was brought under control in the colonial period by an elaborate multi-tiered structure of state monitoring and enforcement (Besseling 1919: 19, 27–8; Fruin 1931: 54). Corruption, nevertheless, remained 'the Achilles' heel of the village credit system' (Van Dranen 1934–5).

In true co-operatives, monitoring and enforcement are supposed to be carried out on a democratic basis by the co-operative members themselves, with or without the aid of professional auditors. But this kind of 'institutionalized suspicion' has been difficult to develop in Indonesia, not only because the managers or organizers of co-operatives have often been political power-holders (such as village heads) and the members their subordinates but also because of a powerful (but usually unspoken) tradition of individual autonomy. People may work together, but interference in the personal economic affairs of others, and even explicit requests for the repayment of personal debts, tend to be regarded as insulting. Carl-Bernd Kaehlig (1986), building on earlier work by Castles (1967) and Siegel (1969), has argued that historically speaking this tradition – itself a reflection of underlying distrust in interpersonal relations – has also impeded the formation of corporate capital (*Gesellschaftsvermögen*) in indigenous Indonesian commercial enterprises, thereby reducing their ability to compete with the various types of traditional Chinese economic organization known as *kongsi* which do possess this feature.

Institutions and ethics

The old economic institutions of rural Indonesia were well adapted to individualism and distrust. In reciprocal labour exchange nobody was entrusted with another's property, while the characteristic emphasis on working together, in each other's physical presence, was not just a matter of sociability: it also had to do with ensuring at first hand, yet without appearing to

offend anyone's dignity, that all participants pulled their weight. Co-operatives require their members, as well as their organizers, to submit themselves to rules that are more difficult and sensitive to enforce. In production co-operatives designed to maintain a minimum price for local products, for instance, individual members must resist the temptation to undercut that price, and in retail co-operatives they may have to resist attempts by traders to undermine the organization by (temporarily) offering lower prices or more favourable credit arrangements (Dewey 1962: 176–7; Djojohadikoesoemo 1941: 94). In credit co-operatives debts must be repaid on time – a requirement which, as the adatrecht scholars knew, was inconsistent with the flexible attitude to credit usually found among Indonesian villagers (Holleman 1927: 20; Soepomo 1941: 21). Time-specific repayment, notes historian Barbara Andaya (2001: 30), has been 'one of the most difficult aspects of the debt-credit relationship in Southeast Asian societies'. One reason for this is of course poverty and insecurity: unforeseen crises often make demands which must take priority over the settling of a debt. That bad faith is also a factor, however, is indicated by the fact that, even in credit organizations not backed by the state, problems of non-payment can sometimes be solved by coercion. Arisan participants in contemporary Yogyakarta, for example, tend to select as organizers 'tough individuals' who are 'well suited to keep malevolent participants under control' (Lont 2002: 192). But in arisan, as we have seen, less responsibility has to be placed in the hands of the organizers than in co-operatives. The more the organizers themselves need to be trusted, the more pressing the old question of *quis custodiet ipsos custodes* – who guards the guards? The problem of social control in the co-operative, in other words, is the classic political problem of the social contract writ small.

Under favourable conditions trust, both in co-operative managers and between co-operative members, can no doubt be built up on an incremental, stepwise basis, and one condition conducive to this kind of evolution is a favourable legal and policy environment which provides for external auditing without destroying internal control mechanisms. But particularly while confidence in a new co-operative is still weak and its rules have not yet acquired that partly self-enforcing quality which they have in long-established institutions, moral or ethical factors must also play a role. Frans Magnis-Suseno (1981: 179–86) has characterized the traditional (pagan) Javanese ethical system as a *Weisheitsethik*, a morality of wisdom or prudence, rather than a *Verpflichtungsethik* or morality of obligation. Unlike Christian or Islamic ethics, in other words, it is a morality which makes little provision for altruism. No doubt this is an oversimplification, but it is clear that, when economic relations are based mainly on indiviual reciprocity, ethical behaviour converges more closely with prudent behaviour than it does in a situation where public goods (including institutions themselves) are important and there is more opportunity for what game theorists call 'free-riding'.

When De Wolff van Westerrode sought an indigenous basis on which to build his lumbung desa system, he thought he had found it in the Islamic *zakat* (tithe) in paddy (which he tried to divert partly into the lumbung) and in local Islamic officials (whom he made members of the lumbung committees). On the whole, as we have seen, this did not work: existing religious ethics and institutions could not suddenly be harnessed by decree to new purposes. '[C]reating a system of effective enforcement and of moral constraints on behavior', as Douglass North (1990: 60) has observed, 'is a long, slow process'. But it is probably no coincidence that the only real precursors to the lumbung desa before De Wolff were the *lumbung miskin* or 'rice barns for the poor', filled by voluntary donations after the harvest, which had been established under the influence of Protestant missionaries in Christian villages in East Java in 1890 (Besseling 1919: 12).

The problem of generating trust – or institutionalizing suspicion – is not of course the only problem affecting co-operatives in Indonesia or elsewhere. Limitations of scale and flexibility, resulting in part from the multiple functions which co-operatives are expected to perform, have everywhere made them vulnerable to competition from private business organizations which – albeit partly because they have themselves developed satisfactory solutions to the trust problem – can mobilize and invest capital more efficiently and on a larger scale. If loyalty to an ideal or institution does not pay even in the long run, then clearly it is never likely to emerge. Certainly it would be misleading to identify features of specifically Indonesian culture or society as the reasons for the disappointing track record of Indonesian co-operatives. In most other developing countries, too, the history of co-operatives is 'a litany of broken promises' (Hospes 1996: 189). Even in India, where they have been relatively successful, they now face a fundamental crisis of capital, management, and credibility as well as ideology (Taimni 2001: 18). Because the problem of overcoming distrust has ethical aspects, however, it has had a special impact on the development of the co-operative ideology in Indonesia, and on the paradoxical way in which Indonesians have reacted when attempts to put that ideology into practice have failed.

Conclusion: on the non-invention of tradition and the counterfactuality of ideals

If Dutch observers identified corruption and lack of solidarity as key weaknesses of the existing co-operatives and village credit banks, Indonesian commentators during the colonial period often agreed (Djojohadikoesoemo 1941: 26–7; Soerodiningrat 1918: 56). Under the New Order, when the co-operatives were supposed to embody moral principles in an otherwise rapaciously capitalist economy, Indonesian academic studies lamented their abuse as instruments of personal gain by those charged with their management (Development Studies Project 1989; Sanusi 1981). One post-New

Order textbook on co-operatives includes chapters entitled 'Morality in the economy' and 'Are human beings really just creatures of greed?' (Hudiyanto 2002); another declares that besides embodying principles of democracy, equality and *kekeluargaan*, co-operatives require ethical management inspired by faith, *keimanan*, and piety, *ketaqwaan* (Sitio and Tamba 2001: 134). The tendency to see the shortcomings of the co-operative movement as ethical shortcomings has been enhanced by its specific association, accentuated by its anti-Chinese overtones, with Islam (Hasan 1985; Vatikiotis 1998: 172). Hatta (1957: 91), himself a pious Muslim, insisted that the principles of 'humanity and fraternity' on which the movement is based derive ultimately from religious ideals. In this perspective any failure to make co-operatives work, or any weakening of resolve in the struggle to do so, becomes a failure to live up to religious precepts as well as nationalist ideals. Failure to realize the co-operative ideal, in other words, leads only to self-criticism and not to criticism of the ideal itself, which if anything is reinforced. In a sense, consequently, the co-operative movement has tended to feed on its own failure.

When I began the literature research on which this chapter is based I rather expected to find, as Röpke (1984: 77) had already suggested twenty years earlier in an excellent article entitled 'Cooperatives in a Pancasila economy', that the portrayal of adat as a premonition of koperasi could be characterized as 'invented tradition' in the sense popularized by Hobsbawm and Ranger (1983) – and that the origins of that tradition would prove to lie in Europe, most directly in the work of the Leiden adatrecht school as described and analysed by Burns (2004). Boeke, after all, was the leading figure in the early history of co-operatives in Indonesia, and Boeke's doctoral thesis had been supervised by Van Vollenhoven himself. But this attractive avenue of investigation quickly turned out to be something of a false trail: Boeke, as noted above, consistently denied that there was any affinity between the 'communal bond' of tradition and the co-operative project, which he insisted 'belongs to an entirely different plane' (Boeke 1953: 34).

By exaggerating the distinction between traditional (social) and modern (economic) forms of organization, Boeke did contribute to the collectivist ideology which Indonesians would link, despite him, with the co-operative movement. And there is no doubt that the specifically Orientalist features of that ideology drew inspiration both from the adatrecht school and from the less scholarly kind of European Orientalism which inspired the early experiments with co-operatives by De Wolff van Westerrode. Not all Dutch writers after De Wolff, it should also be added, agreed with Boeke that traditional and modern economic co-operation were radically different: in a Vrije Universiteit (Amsterdam) doctoral dissertation on co-operatives in the Indies, for instance, Krafft (1929: 206) concluded that various existing forms of 'solidarity and co-operation' offered 'significant points of departure' for a co-operative movement. Nevertheless it would be misleading to say that the

articulation between adat and co-operatives propounded by Hatta and other Indonesian enthusiasts was simply borrowed from Western sources. The construction of this link, and indeed its subsequent (partial) deconstruction (led by Koentjaraningrat), were substantially the work of Indonesians.

In pursuing arguments based on the colonial invention of tradition, as South Asianists in particular now recognize (Eaton 2000; Lorenzen 1999), historians have often been guilty of oversimplification. Recently it has been claimed, in the face of clear evidence to the contrary in reliable accounts of precolonial tribal societies consulted by Van Vollenhoven, that territorial customary rights in Indonesia are essentially inventions of the colonial state (Peluso and Vandergeest 2001). The briefly popular idea that Indonesian villages themselves were typically colonial constructs (Breman 1980; Kemp 1987) has been largely discredited (Boomgaard 1991); in some areas, indeed, the establishment of colonial rule led initially to the dispersal of populations which had previously been concentrated in large fortified villages for security (Knapen 2001: 88). Where political ideology is concerned, the danger of attributing too much influence to colonial scholars and administrators is equally great. Given Suharto's limited reading and education, for example, is it really likely that his 'almost childlike attachment' to co-operatives, or indeed his enthusiasm for corporatist political institutions, were inspired – even at second or third hand – by long-dead European intellectuals?

A more productive approach to the relationship between adat and the co-operative project, I will conclude by suggesting, begins by making a clear distinction between ideals and realities in social life. In this respect, ironically, we do well to follow the example of a colonial adatrecht scholar referred to repeatedly above, F.D. Holleman, whose 1927 field study on the adat law of Tulungagung (near Kediri in East Java) offers a much more nuanced view of the 'communal trait' than does his later Leiden address. In this study Holleman identifies *rukun* – which with his legal orientation he translates as 'peaceful conflict resolution', but which can also be understood in the more general sense of 'harmony' – as an ideal which 'colours, as it were, the whole of native society'.

> To a much greater extent than among ourselves there is an inclination to be helpful to one's neighbour, to avoid any conflict with one's fellows, to avoid causing controversy, and to respect public morality . . . It is not my intention to argue that . . . these preconditions for an ideal state of society in the native world are everywhere and always lived up to, only to note that in native society a strikingly powerful inclination exists to orientate oneself toward them . . . This principle . . . will be referred to in what follows as *rukun* or the '*rukun* principle'.
>
> Holleman (1927: 17–18)

Holleman believed that violations of the rukun principle were less common in Java than in European society. But as his own case studies demonstrate,

and as Hildred Geertz (1961: 150) was also to observe, 'the Javanese are successful in achieving *rukun* in governing their communities and families only part of the time'. Jay, working at the same period as Geertz, was so impressed by the divergences between ideals and practices in social relations in Central Java that he devoted a whole introductory chapter of his classic *Javanese Villagers* (1969) to the importance of distinguishing between 'conception and actuality' in anthropological observation. In a 1996 article entitled 'Is *rukun* dead?', Hawkins translates the word as 'the appearance of harmony and helpfulness'.

> *Rukun* is not a practice but rather a central ideological concept through which Javanese contextualise and apprehend their lives, their aspirations, their motivations and their social relations. In this sense, the 'traditional' notion of *rukun* is equally applicable to contemporary Java, and contemporary Javanese are just as likely to interpret the 'modern' world in terms of *rukun*.
>
> Hawkins (1996: 218)

Co-operation and community spirit, at least in so far as they are implicit in the 'harmony and helpfulness' indicated by rukun, are clearly indigenous ideals, not just pieces of ideology borrowed from Western Orientalists. To this extent I would tend to agree with Reeve (1985: 1–47) that the collectivist ideology has genuinely Indonesian roots. If Boeke was right – albeit, I have argued, for the wrong reasons – to emphasize that traditional forms of co-operation were not a good basis on which to build a modern co-operative movement, Hatta's enthusiasm for co-operatives nevertheless reflected a traditional ideal. But it should not be forgotten that most ideals are to a greater or lesser extent counterfactual. Bourchier (1996: 294), although arguing that the idea of a 'family state' promoted by the New Order is ultimately 'best understood in the context of the organicist tradition of anti-Enlightenment thought in Europe', has observed that in a counterfactual, inverted way it was also a perversely accurate mirror of Indonesian realities.

> If Indonesia was the kind of harmonious family state Suharto's ideologues say it is there would be no need for the vast apparatus of repression. Indeed there would be no need for ideologues or for expensive campaigns to tutor Indonesians in the art of being Indonesian. The intense and continuing efforts on the part of the government to stress the harmonious nature of Indonesian society and of state-society relations stem from a deep fear of explosive communal conflict and social upheaval, much of it a result of its own political and economic policies.
>
> Bourchier (1996: 10)

Societies and individuals, like governments, are more likely to idealize what they lack than what they already have. In this perspective the great overt

value placed on rukun, gotong-royong, and indeed koperasi, now and in the past, can best be understood as confirmation that in social and economic life, as well as in politics, individualism and the distrust on which it feeds are persistent problems to be overcome.

Note

I would like to thank Jamie Davidson, Klaas Kuiper and Ethan Mark for their comments on the paper on which this chapter is based.

References

Aidit, D.N. (1963) *Peranan Koperasi Dewasa Ini*, Jakarta: Depagitprop CC PKI.

Andaya, Barbara Watson (2001) 'Orality, contracts, kinship and the maket in pre-colonial island Southeast Asia', in Miura Toru (ed.) *Ownership, Contracts and Markets in China, Southeast Asia, and the Middle East: the potentials of comparative study*, Tokyo: Islamic Area Studies Project, University of Tokyo.

Anoraga, P. and Sudantoko, H.D. (2002) *Koperasi, Kewirausahaan, dan Usaha Kecil*, Jakarta: Rineka Cipta.

Baswir, R. (1997) *Koperasi Indonesia*, Yogyakarta: BPFE.

Besseling, O.P. (1919) *Het Nederlandsch-Indisch Volkscredietwezen*, Baarn: Hollandia.

Boeke, J.H. (1910) 'Tropisch-Koloniale Staathuishoudkunde: het probleem', unpublished thesis, Rijksuniversiteit te Leiden.

—— (1921) *Verslag van de Coöperatie-commissie*, Weltevreden: G. Kolff.

—— (1923) 'Auto-activiteit naast autonomie', *Blaadje voor het Volkscredietwezen*, 11: 53–89.

—— (1929) *Coöperatie in Britsch-Indië: verslag van een dienstreis*, Weltevreden: G. Kolff.

—— (1930) 'Dualistische economie: rede, gehouden bij de aanvaarding van het ambt van Gewoon Hoogleeraar in de Tropisch-Koloniale Staathuishoudkunde aan de Rijks-Universiteit te Leiden op 15 januari 1930', Leiden: S.C. van Doesburgh.

—— (1953) *Economics and Economic Policy of Dual Societies as Exemplified by Indonesia*, Haarlem: H.D. Tjeenk Willink.

Boomgaard, P. (1991) 'The Javanese village as a Cheshire cat: the Java debate against a European and Latin American background', *The Journal of Peasant Studies*, 18: 288–304.

Bourchier, D. (1996) 'Lineages of organicist political thought in Indonesia', unpublished thesis, Monash University.

Bowen, J.R. (1986) 'On the political construction of tradition: *gotong royong* in Indonesia', *Journal of Asian Studies*, 45: 545–61.

Breman, J. (1980) *The Village on Java and the Early-colonial State*, Rotterdam: Comparative Asian Studies Programme, Erasmus University.

Burns, P. (2004) *The Leiden Legacy: concepts of law in Indonesia*, Leiden: KITLV Press.

Castles, L. (1967) *Religion, Politics and Economic Behaviour in Java: the Kudus cigarette industry*. [New Haven, Connecticut]: Yale University Southeast Asia Studies.

Cramer, J.C.W. (1929) *Het Volkscredietwezen in Nederlandsch-Indië*, 2nd edn, Weltevreden: G. Kolff.

Cribb, R. (1992) *Historical Dictionary of Indonesia*, Metuchen, New Jersey: The Scarecrow Press.

Departemen Koperasi (1999) *Statistik Koperasi, Pengusaha Kecil dan Menengah*, Jakarta: Departemen Koperasi, Pengusaha Kecil dan Menengah.

Development Studies Project (1989) 'Penelitian tentang konsep fungsi ganda dan masalah pengembangan koperasi di Indonesia', unpublished report, Lembaga Ilmu Pengetahuan Indonesia, Jakarta.

Dewey, A.G. (1962) *Peasant Marketing in Java*, New York: The Free Press of Glencoe.

Djojohadikoesoemo, M. (1941) *Tien Jaren Cooperatie-voorlichting vanwege de Overheid 1930–1940*, Batavia: Afdeeling Coöperatie en Binnenlandsche Handel, Departement van Economische Zaken.

Dranen, J.H. van (1934–5) 'De kwetsbare plek bij het dorpscredietwezen', *Volkscredietwezen*, 22: 228–38; 23: 205–11.

Eaton, R.M. (2000) '(Re)imag(in)ing Other^{2}ness: a postmortem for the postmodern in India', *Journal of World History*, 11: 57–78.

Edilius and Sudarsono (1993) *Koperasi dalam Teori dan Praktik*, Jakarta: Rineka Cipta.

Elson, R.E. (2001) *Suharto: a political biography*, Cambridge: Cambridge University Press.

Eng, Pierre van der (1991) 'An observer of 65 years of socio-economic change in Indonesia: Egbert de Vries', *Bulletin of Indonesian Economic Studies*, 27: 39–55.

Fruin, Th.A. (1931) *Inleiding tot de Oeconomie der Inheemsche Samenleving in Nederlandsch-Indië ten Behoeve van het Personeel van het Volkscredietwezen*, Batavia: Albrecht.

—— (1938) 'Popular and rural credit in the Netherlands Indies', *Bulletin of the Colonial Institute of Amsterdam*, 1: 106–15, 161–75.

Furnivall, J.S. (1939) *Netherlands India: a study of plural economy*, Cambridge: Cambridge University Press.

Geertz, C. (1962) 'The rotating credit association: a "middle rung" in development', *Economic Development and Cultural Change*, 10: 241–63.

—— (1963) *Agricultural Involution: the process of ecological change in Indonesia*, Berkeley, California: University of California Press.

Groeneveld, W.P. (1913) 'Het credietwezen in Sumatra's Westkust', *Tijdschrift voor het Binnenlandsch Bestuur*, 45: 195–205.

Hasan, Asnawi (1985) 'Koperasi dalam pandangan Islam: suatu tinjauan dari segi falsafah etik', in Sri-Edi Swasono (ed.) *Membangun Sistem Ekonomi Nasional: sistem ekonomi dan demokrasi ekonomi*, Jakarta: Penerbit Universitas Indonesia.

Hatta, M. (1953) *Kumpulan Karangan*, vol. 1, Jakarta: Balai Buku Indonesia.

—— (1957) *The Co-operative Movement in Indonesia*, Ithaca, New York: Cornell University Press.

—— (1963) *Persoalan Ekonomi Sosialis Indonesia*, Jakarta: Dajambatan.

Hawkins, M. (1996) 'Is *rukun* dead? Ethnographic interpretations of social change and Javanese culture', *The Australian Journal of Anthropology*, 7: 218–34.

Hoadley, A.G.N. and M.C. (1996) 'Developing Indonesia's village co-operatives', in M.C. Hoadley and C. Gunnarson (eds) *The Village Concept in the Transformation of Rural Southeast Asia*. Richmond: Curzon Press.

Hobsbawm, E. and Ranger, T. (eds) (1983) *The Invention of Tradition*, Cambridge: Cambridge University Press.

Holleman, F.D. (1927) *Het Adatrecht van de Afdeeling Toeloengagoeng (gewest Kediri): een onvoltooide studie*, Buitenzorg: Archipel.

—— (1935) 'De commune trek in het Indonesisch rechtsleven: rede uitgesproken bij de aanvaarding van het ambt van buitengewoon hoogleeraar in het Adatrecht van Nederlandsch-Indië aan de Rijksuniversiteit te Leiden, op 10 Mei 1935', Groningen: J.B. Wolters.

Hospes, O. (1996) 'People that count: changing savings and credit practices in Ambon, Indonesia', unpublished thesis, Landbouwuniversiteit te Wageningen.

Hudiyanto (2002) *Sistem Koperasi: ideologi dan pengelolaan*, Yogyakarta: UII Press.

Ingleson, J. (1979) *Road to Exile: the Indonesian nationalist movement 1927–1934*, Singapore: Heinemann.

Ismawan, B. (1997) 'Menggerakkan dan mengembangkan koperasi dari bawah, dan peranan LSM', in Ibnoe Soedjono and Djabaruddin Djohan (eds) *Koperasi di Tengah Arus Liberalisasi Ekonomi*, Jakarta: Yayasan Formasi.

Jay, R.R. (1969) *Javanese Villagers: social relations in rural Modjokuto*, Cambridge, Massachusetts: The MIT Press.

Kaehlig, C.-B. (1986) 'Gesellschaftsrecht in Indonesien: autonome und nationale Gesellschaftsformen', unpublished thesis, Rijksuniversiteit te Leiden.

Kemp, J.H. (1987) *Seductive Mirage: the search for the village community in Southeast Asia*. Amsterdam: Centre for Asian Studies Amsterdam.

Knapen, H. (2001) *Forests of Fortune? The environmental history of Southeast Borneo, 1600–1880*, Leiden: KITLV Press.

Koentjaraningrat (1961) 'Some social-anthropological observations on *gotong rojong* practices in two villages of Central Java', Ithaca, New York: Cornell University Modern Indonesia Project.

—— (1974) *Bungarampai Kebudayaan, mentalitet dan pembangunan*, Jakarta: Gramedia.

Kolff, G.H. van der (1936) *The Historical Development of the Labour Relationships in a Remote Corner of Java as they Apply to the Cultivation of Rice. Provisional Results of Local Investigations*, [Batavia]: National Council for the Netherlands and the Netherlands Indies of the Institute of Pacific Relations.

Krafft, A.J.C. (1929) *Coöperatie in Indië: een sociaal-paedagogisch vraagstuk*, Groningen: J.B. Wolters.

Li, T.M. (1996) 'Household formation, private property, and the state', *Sojourn*, 11: 259–87.

—— (1998) 'Working separately but eating together: personhood, property, and power in conjugal relations', *American Ethnologist*, 25: 675–94.

Lont, H. (2002) 'Juggling money in Yogyakarta: financial self-help organisations and the quest for security', unpublished thesis, Universiteit van Amsterdam.

Lorenzen, D.N. (1999) 'Who invented Hinduism?', *Comparative Studies in Society and History*, 41: 630–59.

Magnis-Suseno, F. (1981) *Javanische Weisheit und Ethik: Studien zu einer östlichen Moral*, Munich: R. Oldenbourg.

Mubyarto (1988) *Sistem dan Moral Ekonomi Indonesia*, Jakarta: LP3ES.

—— (2001) *Amendemen Konstitusi dan Pergulatan Pakar Ekonomi*, Yogyakarta: Aditya Media.

North, D.C. (1990) *Institutions, Institutional Change and Economic Performance*, Cambridge: Cambridge University Press.

Pané, Sanoesi (1943) *Sedjarah Indonesia, Djilid I: hingga achir Madjapahit*, Jakarta: Balai Poestaka.

Peluso, N.L. and Vandergeest, P. (2001) 'Genealogies of the political forest and customary rights in Indonesia, Malaysia, and Thailand', *Journal of Asian Studies*, 60: 761–812.

Popkin, Samuel L. (1979) *The rational peasant: the political economy of rural society in Vietnam*, Berkeley, California: University of California Press.

Rahardjo, M.D. (1981) 'Development policies in Indonesia and the growth of co-operatives', *Prisma*, 23: 3–11.

—— (1985) 'Koperasi dan monopoli', in Sri-Edi Swasono (ed.) *Membangun Sistem Ekonomi Nasional: sistem ekonomi dan demokrasi ekonomi*, Jakarta: Penerbit Universitas Indonesia.

—— (1995) 'Gerakan koperasi masih punyakah harapan?', in Fachry Ali (ed.) *Beras, Koperasi dan Politik Orde Baru: Bustanil Arifin 70 tahun*, Jakarta: Sinar Harapan.

—— (1997) 'Peranan LSM dalam pengembangan koperasi di tengah arus liberalisasi ekonomi', in Ibnoe Soedjono and Djabaruddin Djohan (eds) *Koperasi di Tengah Arus Liberalisasi Ekonomi*, Jakarta: Yayasan Formasi.

Reeve, D. (1985) *Golkar of Indonesia: an alternative to the party system*, Singapore: Oxford University Press.

Röpke, J. (1984) 'Cooperatives in a Pancasila Economy', *Prisma*, 34: 67–82.

Sanusi, B. (1981) 'Perkembangan KUD dan permasalahannya: gambaran dari sub-sistem ekonomi pribumi di pulau Jawa', *Prisma*, 10(4): 44–50.

Schweizer, T. (1989) 'Economic individualism and the community spirit: divergent orientation patterns of Javanese villagers in rice production and the rural sphere', *Modern Asian Studies*, 23: 277–312.

Scott, J.C. (1976) *The Moral Economy of the Peasant: rebellion and subsistence in Southeast Asia*, New Haven, Connecticut: Yale University Press.

Siegel, J.T. (1969) *The Rope of God*, Berkeley, California: University of California Press.

Sitio, A. and Tamba, H. (2001) *Koperasi: teori dan praktik*, Jakarta: Erlangga.

Soedjono, I. (2002) 'Bung Hatta dan koperasi', in Sri-Edi Swasono (ed.) *Bung Hatta: Bapak kedaulatan rakyat*, Jakarta: Yayasan Hatta.

Soepomo, R. (1941) 'De verhouding van individu en gemeenschap in het adatrecht: rede uitgesproken bij de aanvaarding van het ambt van Buitengewoon Hoogleeraar in het Adatrecht aan de Rechtshoogeschool te Batavia op 31 maart 1941', Groningen: J.B. Wolters.

Soerodiningrat, J. (1918) 'Grepen uit het Javaansch-economische leven', in S. Kartono, N. Soeroto, and S. Ningrat (eds) *'Soembangsih': gedenkboek Boedi-Oetomo 1908–29 Mei–1918*, Amsterdam: Tijdschrift Nederlandsch Indië Oud en Nieuw.

Suradjiman (1966) *Ideologi Koperasi Membentuk Masjarakat Adil dan Makmur*, Bandung: Ganaco.

Suyono A.G. and Dawam Rahardjo (eds) (1996) *Koperasi dalam Sorotan Pers: agenda yang tertinggal*, Jakarta: Sinar Harapan.

Taimni, K.K. (2001) *Cooperatives in Asia: from reform to reconstruction*, Geneva: International Labour Office.

Tjakrawerdaja, S., Pasaribu, T., and Budiyana, T. [1993] *Kisah Panjang di Depan Sejarah Koperasi Unit Desa (1973–1993): garis emas perekonomian desa*, [Jakarta]: Departemen Koperasi Republik Indonesia.

Vatikiotis, M.R.J. (1998) *Indonesian Politics Under Suharto: the rise and fall of the New Order*, London: Routledge.

Vink, G.J. (1941) 'De grondslagen van het Indonesisch landbouwbedrijf', unpublished thesis, Landbouwhogeschool te Wageningen.

Vollenhoven, C. van (1918–33) *Het Adatrecht van Nederlandsch-Indië*, 3 vols, Leiden: E.J. Brill.

Wolff van Westerrode, W.P.D. de (1898) 'Eene credietinstelling voor inlanders. (De Poerwokertosche Spaar-, Hulp- en Landbouwcrediet-Bank.)', *Tijdschrift voor Nijverheid en Landbouw in Nederlandsch-Indië*, 56: 35–48, 59–113.

5 The romance of adat in the Indonesian political imagination and the current revival

David Bourchier

It was inevitable that with the erosion of central control following the fall of Suharto local voices would reassert themselves. The New Order's crash development programmes had after all paid little heed to local sensibilities and left a powerful residue of grievance and resentment in many communities. 'Localism' is in this sense a backlash against a heavily centralized system of politics and resource exploitation. It has been manifest variously as a drive for independence from Indonesia, autonomy within Indonesia, and greater representation for local ethnic groups (*putera daerah*) in regional governments. In some parts of Indonesia, mostly outside of Java, we have also seen groups asserting the right to regulate themselves and the natural resources in their area, according to a variety of customary practices and values known collectively as 'adat'. It is this last trend, often referred to as 'adat revivalism', that this book is concerned with.

As the contributors to this book make clear, 'adat' is an idiom mobilized by many different groups for many different purposes. Government officials, local aristocratic elites, ethnic solidarity groups, land rights campaigners, environmentalists, and villagers all use the banner of adat in their public campaigns. The specific reasons behind this phenomenon are dealt with in some detail elsewhere. They have to do with the decentralization initiatives of the Habibie government giving villages the right to incorporate adat in their institutions of governance, the grievances of local groups over the expropriation of land and resources, and the rapid growth of non-governmental organizations (NGOs) advocating on behalf of indigenous peoples. This chapter is concerned less with explaining the adat revival movement(s) than with analysing the idiom of adat.

What is it about 'adat' that has made it attractive as a rallying cry to such disparate groups? Tania Li, in this volume (Chapter 15: 337), puts it succinctly: 'To invoke adat is to claim purity and authenticity for one's cause.' But why should this be so? Why have activists chosen to highlight 'adat' more than minority and human rights for example? To understand the resonances of 'adat' it is necessary to explore its place in the Indonesian political imagination. This chapter therefore starts with a survey of the peculiar place of adat in Indonesian legal and political thinking. While

I make no claim that the current revival is in any sense an inevitable outgrowth of what I have referred to as the romance of adat on the part of Dutch and Indonesian thinkers in the twentieth century, there are many assumptions inherent in contemporary adat discourse as deployed by both conservatives and radicals that make sense only when seen in historical context.

Against this historical background, I critique aspects of the current revival, drawing on case studies to highlight what I see as problems associated with basing political struggles on essentialist notions of identity. The picture is of course highly complex and contradictory, as the revival has in some cases served to empower local communities, strengthen communal bonds and increase the bargaining power of indigenous peoples against predatory outside interests. At the same time, however, it has a real potential, already manifest in some instances, to result in violence, ethnic hatred, the hardening of conservative social hierarchies, and a denial of human rights. The chapter concludes with some reflections on the unintended consequences of the revival and what this may mean both for adat activists and for the state.

Adat is entwined with the very origins of 'Indonesia' as an idea in the early twentieth century.[1] Some of the country's earliest nationalist thinkers, most notably those who studied law at Leiden University, saw in Indonesia's traditional systems of social organization something that gave the archipelago a natural coherence and a unique destiny. This insight was born in the sympathetic environment of Leiden in the early 1920s (see Fasseur in this volume, Chapter 2). The Netherlands was at the time in the throes of a bitter debate about legal reform in their colony in the East Indies. Leiden University was the home of those who argued that it was the responsibility of the government to shield the indigenous populations of the Indies from the destructive and homogenizing impact of Western law and liberal capitalism. This academic and political movement was led by the renowned legal anthropologist Cornelis van Vollenhoven. He and his fellow academics produced a huge body of literature documenting, often in loving detail, the adat of hundreds of local communities that they insisted should be protected and legally recognized. Indonesian students including Supomo, Maramis, and Subardjo were deeply impressed by the writings of the Dutch adat scholars, both because of their obvious infatuation with Indonesian village cultures and because they shared their profound distrust of laissez-faire capitalism. Having grown up seeing their fellow 'natives' treated as third-class subjects by the colonial regime, it was a revelation to find Dutchmen who not only valued their indigenous patterns of social organization but argued that adat was in some ways superior and more enlightened than the positivist legal culture that dominated Europe – caricatured by Van Vollenhoven as 'Byzantine-Napoleonic' (Sonius 1981: XXXV). Dutch scholars such as Haga and de Kat Angelino identified within Indonesian village practices a model of 'Eastern democracy' which represented an advance on the

'individualistic' and 'mechanistic' conceptions of politics associated with elected parliaments and the separation of powers under liberal democracies (Haga 1924: 27–35, cited in Holleman 1981: 227; see also De Kat Angelino 1931: 438–9).

One particularly influential insight attributed to Van Vollenhoven was that underlying the diversity of regional cultures in Indonesia there was 'a single, basic Ur-adat' (Burns 1989: 9, note 11) characterized by:

> a preponderance of communal over individual interests, a close relationship between man and the soil, an all pervasive 'magical' and religious pattern of thought, a strongly family-oriented atmosphere in which every effort was made to compose disputes through conciliation and mutual consideration.
>
> Alisjahbana (1966: 71)

This 'discovery' galvanized the mainly Javanese and West Sumatran students in the Netherlands, and through them larger sections of the nationalist movement because it provided the basis for imagining the islands of Indonesia as a coherent culture area and thus a coherent nation (Reeve 1985: 21). In this way adat, and the communitarian values it was associated with, came to be thought of as the essence of the Indonesian national personality.

At the same time Indonesian law students in Leiden embraced the theoretical underpinnings of Van Vollenhoven's adat scholarship. Particularly important here was Friedrich Karl von Savigny's Historical School which held that each people has a *Volksgeist* (national spirit) and that it is on the basis of this living, breathing essence – rather than on abstract universal principles such as popular sovereignty or democracy – that nation-states should be built. This romantic stream of legal thinking had inspired its devotees in Germany and other parts of Europe to conduct exhaustive studies into customary law in Europe in a (largely vain) attempt to make a case for authentically national legal systems rather than giving in to positivism in the form of Napoleonic-style codification of law. While the struggle for 'adat' had been all but lost in Europe, the Dutch adat scholars fought hard in the first two decades of the twentieth century to ensure that their charges in the Indies were not forced to succumb to the same fate as the over-codified French, Germans and Dutch. Against the odds, they were successful in stemming the trend towards unification of the legal system, preserving a system in which the indigenous population in directly ruled areas were subject to the authority of adat courts protected by the colonial state. The recognition of adat law as law in Indonesia was a high point for the Historical School internationally (Van den Bergh 1986: 78) and reinforced its influence among Indonesian lawyers of adat law.

Of course not all groups within the Indonesian nationalist movement were equally impressed by *Volksgeist*-based arguments. The communists, for instance, did not have much time for romanticizing the traditional social

order, but certainly accepted the notion that Indonesian society was essentially collectivistic in character. With some prominent exceptions such as Mohammad Hatta, modernist Muslims also tended to be dubious, especially as the Leiden legal anthropologists often made a point of privileging indigenous aspects of village practice and beliefs over 'imported' Islamic ones, even though in many parts of the country Islam had been well integrated with local systems of belief over the centuries. It was among the secular nationalists that this linking up of culture, law and national identity had the greatest and most enduring influence. In essence, the assumption was that if a nation's legal and political system and identity were inherent in its *Volksgeist*, then it followed that the primary inspiration for Indonesia's legal and political system ought to be its village traditions and indigenous customs – its adat.

If anything this way of thinking about politics and law was strengthened under the Japanese occupation. Japan's right-wing cultural nationalist movement in the prewar period was deeply indebted to the theoretical world of German nationalism in general and the Historical School in particular (Dale 1986: 214). During the occupation of Indonesia the Japanese made a major effort to encourage intellectuals, politicians and cultural figures to look to 'indigenous tradition' as a source of inspiration. One of the first advisory bodies set up by the Japanese was called the Research Council on Adat and Past State Organization (Panitia Pemeriksa Adat dan Tatanegara Dahoeloe) which included a cast of nationalist figures including Sukarno, Hatta, K.H. Mansur, Ki Hadjar Dewantoro, and Supomo (Gunseikanbu 1944:17, 293, 453). The powerful Japanese Propaganda Department (*Sendenbu*) was keen on extolling indigenous tradition, and it made this clear through two of its organs, *Asia Raya* (Greater Asia) and the journal *Keboedajaan Timur* (Eastern Culture). A typical article from the latter about Indonesia's 'indigenous constitutional order', in 1944, illustrates well the image of the past that the Japanese favoured: 'In the golden age of our ancestors, all government and administration was always based on the civilization and the customs [*adat-istiadat*] passed down to us . . . with the result that our authentic qualities were always well maintained'.[2] It may seem a perverse observation, but in some respects the Japanese occupation authorities spoke a similar language to the Dutch adat scholars and might be seen as having amplified and popularized their ideas.

In May 1945 when Nishimura, the Japanese Chief of the General Affairs Department, addressed the Indonesian delegates of the Independence Preparatory Committee he urged them to bear in mind that nations were living beings. Delegates should, therefore, be careful not simply to imitate other government systems but rather adapt any future system of government to the specific character of Indonesia and its circumstances (Yamin 1959: 111). In his well-known speech to the Committee on 31 May 1945, Supomo praised

the advice of the Japanese General, and translated it directly into the language of the Historical School. 'A state's internal organization', he stated axiomatically, 'is intimately related to its legal genealogy [*Rechtsgeschichte*] and its social structure' (Yamin 1959: 111). Supomo went on to make what is probably still the best known and most extreme case for making adat, or adat principles as he construed them, the basis of the new Indonesia. Referring to Java, the Minangkabau lands and 'the other Indonesian islands' (Yamin 1959: 113), he argued that according to indigenous patterns of social organization there was no division between rulers and ruled and that the new constitution should therefore not recognize any separation of state and society or political rights. These features, he argued, derived from Western societies based on individualistic cultures and were completely inappropriate for Indonesia.

There were enough delegates to the Preparatory Committee who understood the fascist implications of what Supomo was arguing to prevent his so called 'integralist' theory from becoming the guiding principle of the 1945 Constitution. But even some of those who were dubious about his prescriptions used the language of the adat scholars to justify their arguments. Sukarno of course leant heavily on the rhetoric of 'village practices' and particularly the concept of *gotong-royong* (mutual self-help) in a speech of 1 June 1945 in which he articulated the state philosophy of *Pancasila*. While Sukarno was of a different background and political stripe to Supomo, and appears to have taken no interest in adat as such, he shared the assumption that a nation must reflect the national personality and that that national personality was to be found in village practices. These arguments were of course powerfully mobilized again in the mid- to late 1950s when Sukarno mounted his attack on the 'Western' system of parliamentary democracy in Indonesia.

Supomo and Sukarno did not have the same thing in mind when they referred to village traditions. Supomo's vision was of a tranquil paradise in which a ruler ruled over a contented and obedient rural population who knew their place. Sukarno used 'village life' as the epitome of solidarity and mutual cooperation – the qualities he hoped to mobilize to build a new nation. What is important here is not that either Supomo or Sukarno got it wrong when they referred to adat, but that both saw it as politically useful to base their arguments on it. This is underlined by Mohammad Hatta's constant references to village democracy as it was presumed to have existed in his West Sumatran homeland before the onslaught of colonialism (Rose 1987: 191).[3] When multi-party democracy was under attack in 1956, Hatta attempted to defend it by pointing to the authentic Indonesian roots of democracy as manifest in Minangkabau adat (Feith and Castles 1970: 32–40).

Ironically, while 'adat' loomed large in the political debates of 1945 and again after the mid-1950s, few members of the national elite cared about preserving or reviving adat jurisdictions. The 1945 Constitution had

recognized the existence of approximately 250 self-governing regions and village communities (*zelfbesturende landschappen* and *volksgemeenschappen*) and stipulated that these areas with their own indigenous social systems should be regarded as 'special regions'. This was largely ignored, however, by the republican government and did not appear in either the federal constitution or the interim constitution of 1950. Adat courts were abolished in most areas of Indonesia in the early 1950s following the issue of Emergency Statute no. 1/1951 concerning temporary measures to unify the structures, powers, and procedures of the civil courts (Lev 1973: 23–4). Most lawyers and national-level politicians favoured the abolition of adat courts at the time for the same sorts of reasons that the federal constitution was done away with at the end of 1950: they were seen as a legacy of Dutch efforts to keep Indonesians divided along racial and ethnic lines. National unity was the overriding imperative of the time and nationalist lawyers led the push to unify (and implicitly centralize) the extremely complex plural court system inherited from the Netherlands East Indies. They were only partly successful. Muslim courts were preserved alongside the secular state system largely because the Muslim interests were much better organized and more powerful than the defenders of adat interests (Lev 1973: 22). The abolition of adat courts was relatively unproblematic in most areas. In many parts of Sumatra they had already been effectively eliminated during the revolution. And there was little resistance in Bali and Sulawesi where the adat courts were often unpopular. Where they were retained for longer, this was often because of a shortage of trained legal officials to staff the state-run courts. A senior South Sumatran Justice Ministry bureaucrat provides an interesting taste of how the adat courts were seen by local nationalist elites in 1950 quoted by Lev. After damning adat courts for not being based on a separation of functions or written legal codes, for increasing legal uncertainty and for arbitrariness, the official wrote:

> Colonialism is no more . . . In order for colonialism to die completely without leaving any traces, and also to achieve equality of rights, equality of races, and equality of status, it is altogether fitting that the remaining native court . . . be done away with. Equal Justice under Law [English in the original] is our goal. One kind of law . . . and one kind of court for all the people of Indonesia.[4]

When the commitment of the political parties to parliamentary democracy was at its height in the first half of the 1950s, advocacy of adat and 'indigenous Indonesian democracy' was limited mainly to the feudal fringe associated with the conservative PIR and Parindra parties.[5] Yet adat law continued to be taught in civilian and military law schools, and romantic Historical School assumptions continued to colour the thinking of many of Indonesia's top legal minds including the influential Dutch-trained scholar Djojodigoeno, who headed an adat studies institute in the Law Faculty of

Gadjah Mada University in Yogyakarta in the 1950s (Hooker 1975: 293–4). Djojodigoeno argued that the Indonesian social system was completely different from that of the West and that positivistic, individualistic Western legal values, with their 'subtlety and chicanery', had no place in an Indonesian court (Jaspan 1965: 253). He was a leading advocate of replacing Western law with living, unwritten law that emerged directly from Indonesian culture and reflected the people's sense of justice. More influential still was Djokosutono, professor of law and social sciences at the University of Indonesia. Djokosutono spoke consistently in the 1950s about the need to adjust Indonesia's legal and political structures to the country's cultural patterns, which he spoke about with frequent reference to the Leiden adat scholars such as van Vollenhoven, Ter Haar, and Haga (see Djokosutono 1982).

This became significant as Sukarno and the army leaders cast about for ideas on building an alternative to the parliamentary democracy they were determined to demolish. Both relied on Djokosutono for advice about how to construct a more 'Indonesian' system of rule to replace the 'alien', 'divisive', and 'legalistic' system of parliamentary democracy. Sukarno justified the overhaul of governing institutions that marked the transition to Guided Democracy squarely in terms of the need to move towards a more indigenous system of rule based on the village practices of *musyawarah* (deliberation) and *mufakat* (consensus). In so doing he brought indigenist rhetoric back to centre stage, together with much of the intellectual baggage that went with it.

This is evident in the 1960 resolution by the Interim Peoples Consultative Assembly (MPRS) that adat law should become the basis of Indonesian national law (Reeve 1985: 319). While this resolution is better seen as an affirmation of the political momentum opposing Western, legalistic thinking and constitutionalism than as a serious proposal to translate adat into national law, it helps illustrate how readily available 'adat' was both for instrumental and legitimatizing purposes. It presumed, and at the same time reinforced, a close identification between adat and Indonesian-ness in the political public.

Sukarno's appeals to adat and the national personality clearly did not persuade everyone. Lawyer and novelist Sutan Takdir Alisjahbana, writing in 1964, took aim at the Leiden-influenced jurists of the Guided Democracy era, arguing that:

> they never really understood that the peculiar synthesis of nationalist sentiment and ideas of Indonesian progress in the modern world, expressed by their whole concern for customary law, soon brought the development of Indonesian law and Indonesian legal thinking to a hopelessly confused and tangled impasse. All clearly defined goals were lost sight of; and any rational understanding of the problems of law, as faced by Indonesia in the 20th century, completely vanished.
>
> Alisjahbana (1968: 10–11)

Many students and intellectuals who supported Suharto's rise to power in 1966, especially those aligned with the Indonesian Socialist Party (PSI), were of a similar frame of mind and looked forward to an era in which rationality and economic development would somehow displace politics and ideology. Yet while PSI-influenced intellectuals had a significant input into the economic policies and political structuring of the New Order, Suharto at the same time gave lawyers steeped in adat law a major role as ideologues for the new regime. One of the main concerns of the ideologues was to legitimate the New Order in cultural terms, to assure the millions of Sukarno sympathizers in particular, that the New Order was at least as authentically Indonesian as the old regime despite its embrace of the Western alliance. They did this by attempting to redefine the Pancasila in indigenous terms. Sukarno may have been the first to use the term Pancasila, they said, but in reality he excavated it from Indonesian soil. He went on to distort it by infusing it with Western ideas. The New Order would in effect rescue the Pancasila and return Indonesia to its true personality – a personality based not on Sukarno's vision of a dynamic and egalitarian *rakyat* (people) but on Supomo's vision of a sedate, hierarchical and harmonious society perhaps best encapsulated by the term *kekeluargaan* (family-ness). Each of the five principles of the Pancasila was reinterpreted in this light. Addressing the left-flavoured principle of *kerakyatan* (populism) in the Pancasila, Brigadier General Soetjipto, a military lawyer and one of Suharto's closest advisers, wrote in 1966: 'Essentially the notion of *kerakyatan* derives from Indonesia's indigenous view of life as manifest in the centuries old sayings and lore of Indonesian adat preserved and bequeathed to us by our ancestors' (Soetjipto ed. 1966: 10–11).

Soediman Kartohadiprodjo, a professor of law at Parahyangan University in Bandung and a frequent contributor to the influential pro-New Order student newspaper *Mahasiswa Indonesia* (Indonesian Student), also regarded adat as the repository of the authentic Indonesian spirit. In an article on the Pancasila in June 1966 he said that it was all the more important to preserve and foster adat principles given, as he put it, the past success of 'Dutch heroes' such as Van Vollenhoven, Snouck Hurgronje, Ter Haar and others in protecting adat against the impact of Western ideas. The 'determined struggle' of these adat scholars, Soediman argued, had made Indonesia 'the only newly independent nation in Asia to have a law system [i.e. adat] of its own which is in accordance with its personality'. This achievement had, however, been tragically undermined by 'Indonesians swallowed up by Western thinking' (Kartohadiprodjo 1970: 102).

Another major adat scholar who saw himself as an integral part of the New Order was Hazairin, professor of Adat and Islamic Law at the University of Indonesia. His 1970 book *Pancasila Democracy* was used as a text in Indonesian law faculties. In it he wrote at length about Pancasila Democracy as a higher manifestation of 'adat democracy', a concept he borrowed

from Haga (Hazairin 1985: 53–67). If Western rulers exploited their people for their own selfish ends, rulers in Indonesia 'always fulfilled their duties in looking after the public interest by consulting with the people via their elders' in an adat congress (*rapat besar adat*). The MPR, Hazairin (1985: 39–50, 53–6) argued, represented the modern manifestation of the adat congress, and should be governed by adat principles. Authority in a Pancasila democracy, Hazairin suggested, should mirror that in adat communities, where leaders were responsible for all aspects of government and welfare 'without any *trias politica* [separation of powers], without any differentiation between public and private spheres [*publik dan perdata*], without any sharp differentiation between legal norms, moral norms and spiritual norms' (1985: 48).

The last figure worth mentioning in this context is the military lawyer and ideologue Colonel Abdulkadir Besar. Like most military lawyers of his generation he had studied under Djokosutono and was an avid admirer of Supomo. While Secretary General of the MPRS in 1968 he made a detailed case for regarding Supomo's 1945 vision of adat, distilled into the term '*kekeluargaan*' as Indonesia's *Staatsidee*, the legitimate basis for ordering political life in the nation. A system based on kekeluargaan, he argued, 'does not use voting, does not recognize majorities and minorities and does not recognize oppositionism'.[6]

Although not all of the ideas of these figures were adopted, many did make their way into the mainstream ideology of the New Order and were later propagated on a massive scale through the government's Pancasila Education programme known as P4.[7] A major aim of the P4 programme was to inscribe on the population a way of thinking about being Indonesian that was intimately tied to the conservative image of traditional society promoted by adat scholarship. In tying Indonesian-ness to generic 'adat norms' in this way, the government was able to declare behaviours that it did not approve of – including opposition, striking, and voting in parliament – to be un-Indonesian.

It is easy to be cynical about the instrumental ways in which Pancasila and images of traditional society were used by the New Order, and indeed Pancasila had become so compromised by the end of the Suharto era that the P4 programme was scrapped in its wake. Yet during the New Order period dissidents found themselves unable to respond adequately to accusations that they were less than authentic Indonesians if they confronted the government directly. One reason for this, I would like to suggest, was the effectiveness of the government's mobilization of a particular version of indigeneity in its political discourse. Most people, including many dissidents, bought into a vision of Indonesian identity not far removed from that which the government's ideologues were promoting. Critics were cynical about the government's failure to live up to the ideals it espoused, not about the images of traditional society and national identity on which they were based.

W.S. Rendra's biting satire *The Struggle of the Naga Tribe* (1979) illustrates the extent to which even trenchant critics of the New Order accepted romantic notions of village life. The play tells the story of the plight of an unspecified indigenous community, whose idyllic and harmonious lifestyle based on 'the traditions of the ancestors' is threatened by a rapacious foreign mining company in league with corrupt government officials. Rendra's work was influenced by theories of economic dependency current in the 1970s, but the way it deals with adat and (liberal capitalism) places it within the romantic tradition of thinking that was propagated by the Leiden scholars, sustained by Indonesia's law schools and adapted to different ends by the ideologues of the Sukarno and Suharto eras. Its force as a critique – the reason it was banned – was that it poked fun at the contradictions between the government's idealization of village society and the reality of its programme of 'accelerated modernization' that saw village communities in many parts of the country demolished or irreversibly transformed for the sake of economic development.

The NGO activists affiliated with groups such as SKEPHI (Indonesian Network on Tropical Forest Conservation) and later the Network for the Defence of Adat Communities (Jaringan Pembelaan Hak-hak Masyarakat Adat) who took up the cause of adat in the early 1990s were, like Rendra, motivated by a genuine sympathy for the victims of a predatory and heavily centralized regime that often ignored local sensitivities and traditional land rights. But they went much further. They saw in 'adat' the potential for mobilizing resistance to the heavy-handed expropriation of traditional lands for transmigration, logging, mining, and other purposes decided by planners in Jakarta. They also believed that, if indigenous peoples self-identified as 'adat communities' (*masyarakat adat*) rather than accepting the pejorative official term 'isolated tribes' (*suku terasing*), they could reclaim their dignity after decades of marginalization.

There are many instances in Indonesian history of local groups opposing state policies on the basis of their customs and beliefs, but the co-ordinated use of 'adat' as a symbol of resistance to the centralized state was something quite new. The movement was not inspired by the adat law movement in the 1920s or by legal academics. Its origins lie in the concrete struggles of marginalized communities and, as Acciaioli (2002) has shown, in the global movement for indigenous peoples' rights and environmental sustainability. It picked up pace in the mid-1990s and following the fall of Suharto emerged as a national movement with the formation of AMAN, the Indigenous Peoples Alliance of the Archipelago (Aliansi Masyarakat Adat Nusantara). The movement aligned itself with the decentralization initiatives of the Habibie government and this was reflected in a raft of new national and regional legislation recognizing traditional customary rights beginning with Law no. 22/1999 on Regional Governance.[8] This law devolved power to the district level and stipulated that villages should remain part of the national legal system, but also specified that villages could reflect their own traditions

(adat) in institutions of governance and village regulations. This section of the law was largely ignored in Java because – outside of aristocratic circles – adat had little political unity. But in some other parts of Indonesia where 'adat' was an important part of regional identity or where there were groups who saw an opportunity to take advantage of the legislation – such as in Central Sulawesi – it soon took on a life of its own, with activist organizations, local communities, and local governments competing to harness its potential. 'Adat' gained new currency in battles over identity and resources in parts of Sulawesi, Kalimantan, West Papua, Bali, Flores, and Sumatra.

The successes of the movement on behalf of indigenous peoples was testimony to the political skills of the seasoned campaigners associated with groups such as AMAN, many of whom had been part of the struggle against Suharto. But I would suggest that its success was also due to the fact that their representations of adat as wise, socially harmonious, communalistic, and in tune with nature[9] chimed with one of the favourite themes in Indonesian political thinking, the idea that adat is inherently good, pure, and authentic. The movement would not have gained the acceptance it did from the political establishment had they used the language of class or minority rights. But while some activists clearly used 'adat' as code for '*rakyat*' (the people), my sense is that the broader movement adopted quite unself-consciously the romantic imagery of 'adat' that had been a staple of conservative political ideologues in Indonesia for decades. The failure of groups such as AMAN to examine more critically this legacy, and the complex social and political realities of local societies on the ground, led them to push for the introduction of legislation empowering adat communities as if they existed as distinct, harmonious, self-regulating entities.

In parts of Indonesia such as Bali and West Sumatra, where adat institutions had largely survived the New Order, the legislative changes had few major political ramifications other than to strengthen the prestige of already quite powerful traditional elites. In several other places however, the adat revival has sparked the emergence of ethno-nationalisms and other – sometimes violent – manifestations of chauvinism that are difficult to square with the progressive aims of the NGO activists leading the adat movement.

While it is clearly difficult to make generalizations about such a variegated and contested phenomenon as the adat revival, I want to conclude with some reflections on some of the problematic aspects of the campaign to elevate the status of adat on a national scale. The first and perhaps most obvious problem is with the category itself. What is an adat community? AMAN defined it in 2001 as a 'community living together based on their origins intergenerationally in adat land, who have sovereignty over the land and the natural resources, socio-cultural life regulated by adat law and adat institutions which manage the sustainability of the communities' lives' (AMAN 2001). In practice, an adat community is a group that describes itself as an adat community. A total of 208 adat communities were represented at the first AMAN congress in 1999, coalescing into 14 principal

member organizations by 2004.[10] Without wanting to question the representativeness of particular organizations, it is far from clear how tenable it is to speak of coherent self-managing adat communities in present-day Indonesia. Research by Li (2001) on Central Sulawesi and Rebecca Elmhirst (2001) in Lampung (Sumatra) points to a long and complex history of interactions between communities in these areas and outsiders, casting doubt on whether some of the more remote societies can usefully be understood as discrete entities. This point is underlined by the difficulties adat activists have had identifying pristine communities and by the many disputes that have arisen among putative representatives of adat communities about for whom they speak. Adat activists acknowledge the problems posed by cultural definitions of adat, leading some, such as Arianto Sangaji in this volume (Chapter 14), to propose that adat communities be defined instead by their experience of oppression.

Assuming the heterogeneity of most communities in Indonesia, another problem with supporting adat as a vehicle for mobilizing people is that it sharpens distinctions between cultural insiders and outsiders, increasing the potential for horizontal conflict and violence. Some of the communities that responded most enthusiastically to the opportunities presented by the adat revival were those with grievances against religious or ethnic minorities, usually of immigrant origin. The most obvious example was the Dayaks of West Kalimantan who had generally poor relations with migrants from Madura. While there were many factors behind the massacre of hundreds of Madurese in 1997, Davidson argues that the rapid spread of Dayak consciousness promoted by NGOs such as the Institute of Dayakology Research and Development (IDRD), 'contributed significantly' to the scale and intensity of the killings.[11] The adat revival has clearly done little to promote peace in the Moluccas either, where rivalry between locals and migrants has also been articulated in cultural and religious terms. Adat councils in the Moluccas have been implicated in sectarian violence and the destruction of property that has killed and displaced tens of thousands of people (*Kompas*, 25 January 2000). While the embrace of adat politics among the indigenous population around Lake Lindu in Central Sulawesi has been much more benign, it was also motivated in part by their wish to curtail the rights of Bugis 'newcomers' (see Chapter 15 in this volume). Solidarity and enmity are no strangers.

There is also the issue of how the adat revival will affect the distribution of power within adat communities. Adat advocacy necessarily entails, as Elmhirst (2001: 293) has suggested, 'embracing issues of hierarchy and oppression found within these communities'. There is already evidence of conservative elites using the new opportunities afforded by the resurgence of adat to reinforce their power at the expense of less privileged groups. Biezeveld writes in this volume (Chapter 9) about adat leaders in West Sumatra appropriating land for themselves, while in Central Sulawesi there are many

cases of already powerful figures adopting the mantle of adat to further their political and commercial interests, sometimes in collaboration with foreign enterprises, leading some activists to talk about the 'hijacking' of the adat issue (see Aditjondro 2003: 15–17; also Sangaji in this volume, Chapter 14). The victims of this (not unforeseeable) manipulation of the adat idiom are of course the less privileged members of the adat communities themselves. It remains to be seen how the adat revival will affect women, but the evidence from Central Sulawesi, West Sumatra, and Bali is that adat councils are strongly patriarchal. Margot Cohen (2001: 57) reports a future head of a *pakraman* (adat) village in Bali telling her, 'In adat villages women never play a role in policymaking'.

Another potential outcome of the adat revival is that values such as human rights and equality before the law are devalued. There is an argument that in the context of Indonesia's dysfunctional and corruption-plagued legal system these ideals do not mean much to ordinary Indonesians and people should not be criticized for attempting to construct local communities based on more culturally resonant sets of values. But Indonesia is a plural society, and what may be healthy and empowering for one group may not be healthy and empowering for another. Again West Kalimantan is instructive. As Davidson shows in this volume, in its effort to defend the 'war' on Madurese immigrants, the pro-adat IDRD found itself in polar opposition not only to the developmentalist policies of the Indonesian government but also to Human Rights Watch (HRW). Responding in 1997 to a HRW report on the violence, IDRD described the killings as a necessary response on the part of the Dayaks 'to fulfil the obligations and demands of the adat, or indigenous laws' and, Davidson points out, did not once mention the notion of human rights. Although this is perhaps an extreme example, it is surely worrying to see adat activists resorting to the same 'exceptionalist' arguments as national governments when confronted with human rights criticism. It is only a short step from ignoring human rights to denying them.[12]

I am not suggesting here that locally respected modes of dispute resolution should have no place in the national system of law and justice. Experience in Indonesia and abroad has proved that they are capable of providing relatively speedy and effective remedies.[13] But this has worked best when local dispute resolution institutions are integrated into the state system in a way that complemented it rather than stood outside it. My fear is that if adat courts are reintroduced, as proposed by some adat activists (AMAN 2003), the problems with the old adat courts will simply be repeated, namely, that devolution of authority to adat elites will introduce greater uncertainty, leave greater room for arbitrary and inconsistent decision making and undermine the notion of equality before the law.

While some leading adat activists have publicly acknowledged the risks inherent in the adat revival – AMAN's Abdon Nababan has, for instance, spoken of the danger of resurgent feudalism and ethnic cleansing (Nababan

2003c, cited by Li, this volume, Chapter 15) – there appears to be a reluctance on the part of the movement to consider whether the ethnic violence, discrimination, and profiteering that have already occurred might not be a direct consequence of attempting to make indigeneity the issue in the struggle over resources. This is not to suggest that the struggle on behalf of indigenous people has not had any positive outcomes, because it clearly has benefited some communities. I am simply observing that groups advocating on behalf of indigenous people may have accepted rather too uncritically some of the inherited romantic assumptions about the coherence, purity, and harmoniousness of adat and that this is having problematic consequences when translated into activism and policy.

The unintended consequences of the adat revival will, I believe, encourage activists to reflect more critically on the complexity of village life in Indonesia, on the legacy of 'adat' discourse in Indonesian politics and on the perils of promoting cultural essentialism. The state, one would hope, is learning from the problems that attracted indigenous communities to the masyarakat adat movement in the first place: political marginalization, heavy-handed development policies, and a failed state system of justice. Decentralization of political and economic power has started to address the issue of accountability and has, in places, given local communities a greater share of revenues from resource extraction (see McCarthy 2004), but the state still needs to invest a great deal of energy, resources, and imagination if it is to make the law and courts more responsive to local needs.

Notes

1 This section is based on Bourchier (1996).
2 Many similar statements taken from newspapers including *Asia Raya*, *Soeara Asia* (Asian Voice), *Tjahaja* (Radiance), and *Sinar Baru* (New Rays) are reproduced in Darmosugito (1982).
3 Hatta was a strong admirer of the agricultural economist J.H. Boeke, a student of Van Vollenhoven and a follower of the Historical School of economics which, like the Historical School of law, was developed in Germany in the nineteenth century and highlighted the specificity of time and place rather than universal economic laws (see also Henley in this volume, Chapter 4). The German Historical School of economists also informed the thinking of most of the participants in the Dutch debates over adat and land rights (Kahn 1993: 81, 92–7).
4 Typescript entitled 'Menuju kearah penghapusan pengadilan asli dan persamaan pengadilan di Sumatera Selatan', 27 March 1950 (cited in Lev 1973: 28–9).
5 See in particular the 1953 book *Desa* (The Village) in which *pamong praja* (administrative elite) elder Soetardjo Kartohadikoesoemo condemned liberal democracy and drew on the writings of the Leiden adat scholars to argue that 'indigenous Indonesian democracy', with its emphasis on communalism, was a far more appropriate model for Indonesia (Kartohadikoesoemo 1953: 12–34, 165).

6 Press interview with Abdulkadir Besar, cited in Nasroen (1971: 26).
7 P4 stands for *Pedoman, Penghayataan dan Pengamalan Pancasila* (Guidelines for the Understanding and Implementation of Pancasila).
8 Rikardo Simarmata (2003) surveys the range of laws and draft bills on agrarian affairs, natural resources, human rights, forestry, mining, water management, and education – as well as the important constitutional amendment of 2000 – that gave legal recognition to adat communities.
9 See, for instance, the writings of AMAN's executive secretary Abdon Nababan (2003a, 2003b).
10 See the AMAN homepage online – available: <http://dte.gn.apc.org/AMAN/kenal/anggota.html> (accessed 18 January 2005).
11 Davidson – in this volume (Chapter 10), referring to Davidson (2003: 67) – stresses that the adat activists themselves 'neither incited nor engineered the violence (Ch. 10: 230)'.
12 A related point is that the focus of indigenous peoples' movements on difference and particularism can take the spotlight off the globally organized corporations that they are often in conflict with, making it easier for those interests to play groups off against one another (see Harvey 1996).
13 See Strijbosch's 1985 study of folk dispute resolution in Lombok. An example from Australia is the Koori Court set up in Shepparton, Australia, in 2002 for the aboriginal community – see 'Shepparton's Koori Court' (2004).

References

Acciaioli, G. (2002) 'Re-empowering "the art of the elders": the revitalization of *adat* among the To Lindu people of Central Sulawesi and throughout contemporary Indonesia', in M. Sakai (ed.) *Beyond Jakarta: regional autonomy and local societies in Indonesia*, Adelaide: Crawford House.

Aditjondro, G. (2003) 'Mengayun di antara batu karang dan pusaran air di laut lepas', *Seputar Rakyat*, June.

Alisjahbana, S.T. (1966) *Indonesia: social and cultural revolution*, trans. B. Anderson, Kuala Lumpur: Oxford University Press.

—— (1968) 'Customary law and modernization in Indonesia', in D. Buxbaum (ed.) *Family Law and Customary Law in Asia: a contemporary legal perspective*, The Hague: Martinus Nijhoff.

AMAN [Aliansi Masyarakat Adat Nusantara] (2001) *Mengenal Lebih Dekat AMAN*, Jakarta: AMAN.

—— (2003) *System Peradilan Adat dan Lokal di Indonesia: peluang dan tantangan*, Jakarta: Aliansi Masyarakat Adat Nusantara and Partnership for Governance Reform.

Bergh, G.C.J.J. van den (1986) 'The concept of folk law in historical context: a brief outline', in K. von Benda-Beckman and F. Strijbosch (eds) *Anthropology of Law in the Netherlands: essays on legal pluralism*, Dordrecht: Foris.

Bourchier, D. (1996) 'Lineages of organicist political thought in Indonesia', unpublished thesis, Monash University.

—— and V.R. Hadiz (eds) (2003) *Indonesian Politics and Society: a reader*, New York: RoutledgeCurzon.

Burns, P. (1989) 'The myth of *adat*', *Journal of Legal Pluralism*, 28(1): 1–127.

Cohen, M. (2001) 'Autonomy rules, OK?' *Far Eastern Economic Review*, 2 August: 55–8.

Dale, P.N. (1986) *The Myth of Japanese Uniqueness*, New York: St Martin's Press.

Darmosugito, Pitiyo (ed.) (1982) *Menjelang Indonesia Merdeka: kumpulan tulisan tentang bentuk dan isi negara yang akan lahir*, Jakarta: Gunung Agung.

Davidson, J.S. (2003) 'The politics of violence on an Indonesian periphery', *South East Asia Research*, 11(1): 59–89.

Djokosutono (1982) *Kuliah Hukum Tata Negara*, compiled by H.A. Rasid (1959), Jakarta: Ghalia Indonesia.

Elmhirst, R. (2001) 'Resource struggles and the politics of place in North Lampung, Indonesia', *Singapore Journal of Tropical Geography*, 22: 284–306.

Feith, H. and Castles, L. (eds) (1970) *Indonesian Political Thinking, 1945–1965*, Ithaca, New York: Cornell University Press.

Gunseikanbu (1944 [2604]) *Orang Indonesia jang Terkemoeka di Djawa*, Jakarta: Gunseikanbu.

Haga, B.J. (1924) 'Indonesische en Indische democratie', unpublished thesis, Rijksuniversiteit Leiden.

Harvey, D. (1996) *Justice, Nature and the Geography of Difference*, Oxford: Blackwell.

Hazairin (1985) *Demokrasi Pancasila*, 5th printing, Jakarta: Bina Askara.

Hooker, M.B. (1975) *Legal Pluralism: an introduction to colonial and neo-colonial laws*, Oxford: Clarendon Press.

Holleman, J.F. (ed.) (1981) *Van Vollenhoven on Indonesian Adat Law: selections from* Het Adatrecht van Nederlandsch-Indië *(Volume I, 1918; Volume II, 1931)*, The Hague: M. Nijhoff.

Jaspan, M.A. (1965) 'In quest of new law: the perplexity of legal syncretism in Indonesia', *Comparative Studies in Society and History*, 7: 252–66.

Kahn, J.S. (1993) *Constituting the Minangkabau: peasants, culture and modernity in colonial Indonesia*, Oxford: Berg.

Kartohadikoesoemo, S. (1953) *Desa*, Bandung: Sumur Bandung.

Kartohadiprodjo, S. (1970) *Beberapa Pikiran Sekitar Pantja Sila*, Bandung: Alumni.

Kat Angelino, A.D.A. de (1931) *Colonial Policy*, 2 vols, The Hague: Martinus Nijhoff.

Lev, D. (1973) 'Judicial unification in post-colonial Indonesia', *Indonesia*, 16: 1–37.

Li, T.M. (2001) 'Relational histories and the production of difference on Sulawesi's upland frontier', *The Journal of Asian Studies*, 60: 41–66.

McCarthy, John F. (2004) 'Changing to gray: decentralization and the emergence of volatile socio-legal configurations in Central Kalimantan, Indonesia', *World Development*, 32: 1199–223.

Nababan, A. (2003a) 'Foreword' in ICRAF, AMAN, and FPP, *In Search of Recognition*, Bogor: World Agroforestry Centre, Aliansi Masyarakat Adat Nusantara, Forest Peoples Program.

—— (2003b) 'Konflik penguasaan dan pengelolahan sumberdaya alam: implikasinya terhadap masyarakat adat', Online. Available: <http://dte.gn.apc.org/AMAN/publikasi/makalah_ttg_konflik_sda.html> (accessed 10 December 2004).

—— (2003c) 'Gerakan masyarakat adat di Indonesia: di antara harapan dan kekhawatiran,' paper presented at AMASUTA seminar, Palu, Central Sulawesi, 26 May.

Nasroen, M. (1971) 'Seseorang dalam dan dengan pergaulan hidup' in *Cinerama Hukum di Indonesia: beberapa karangan di beberapa bidang hukum in memoriam Prof R. Djokosoetono SH*, Bandung: PT Eresco.

Reeve, D. (1985) *Golkar of Indonesia: an alternative to the party system*, Singapore: Oxford University Press.

Rendra, W.S. (1979) *The Struggle of the Naga Tribe: a play*, trans. M. Lane, St Lucia, Queensland: University of Queensland Press.

Rose, M. (1987) *Indonesia Free: a political biography of Mohammad Hatta*, Ithaca, New York: Cornell Modern Indonesia Project Monograph Series.

'Shepparton's Koori Court' (2004) The Law Report, ABC Radio National, 3 February. Online. Available: <http://www.abc.net.au/rn/talks/8.30/lawrpt/stories/s1035995.htm> (accessed 8 March 2004).

Simarmata, R. (2003) 'Menyongsong berakhirnya abad masyarakat adat: resistensi pengakuan bermasyarakat'. Online. Available: <http://dte.gn.apc.org/AMAN/publikasi/Artikel%20Politik%20Simarmata.htm> (accessed 10 December 2004).

Soetjipto (ed.) (1966) *Kembali Kepada Kemurnian Konstitusi 1945*, Jakarta: Matoa.

Sonius, H.W.J. (1981) 'Introduction', in J.F. Holleman (ed.) *Van Vollenhoven on Indonesian Adat Law: selections from* Het Adatrecht van Nederlandsch-Indië *(Volume I, 1918; Volume II, 1931)*, The Hague: M. Nijhoff.

Strijbosch, F. (1985) 'Recognition of folk institutions for dispute settlement in Lombok, Indonesia', in A. Allot and G.R. Woodman (eds) *People's Law and State Law: the Bellagio papers*, Dordrecht: Foris.

Yamin, M. (1959) *Naskah Persiapan Undang-undang Dasar 1945*, Jakarta: Jajasan Prapantja.

6 Land, custom, and the state in post-Suharto Indonesia

A foreign lawyer's perspective

Daniel Fitzpatrick

The long-standing debate on Indonesian adat (customary) law has generally been couched in terms of a choice between unification and pluralism. Historically, legal unification has been supported as a precondition for national development, a process said to require unitary state law; whereas legal pluralism has been advocated as a social necessity, an unavoidable recognition of diverse 'living' laws. Thus the parameters of the debate have been set in essentially dualist terms; an underlying distinction is assumed between unitary state law and diverse adat laws; and the underlying question is assumed to be the proper relationship between the 'state' and 'adat'.

So, most commentators have described the slow swing of the legal policy pendulum. For example, commenting on the colonial period Fasseur writes (this volume, Chapter 2: 50–1):

> At the turn of the twentieth century . . . [a] fierce discussion about the advantages and disadvantages of the introduction of modern and uniform European law concepts into native societies and of the suppression or conservation of indigenous customary or adat law in Indonesia flared up in the Netherlands and went on for many years. This debate was to dominate any further developments in the Indonesian legal field during the last four decades of colonial rule.

Similarly, in relation to post-colonial legal issues, Gautama and Hornick (1983: 28) conclude:

> Whatever the original motives, the division of colonial society into population groups has survived the transfer of sovereignty . . . The great theme of law reform for 25 years has been the task of unification, the effort fully to supplant racial criterion with those of citizenship.

In this 'task of unification' the flagship has been the Basic Agrarian Law of 1960 ('the BAL' hereafter), which rejects the pluralism of colonial land law on the basis that 'it is inconsistent with nation-building and fails to provide legal certainty to autochthonous Indonesians'.[1] The BAL thus establishes an

objective of 'laying the foundation for a national agrarian law that provides legal unity, simplicity and certainty to all Indonesians'.[2]

More recently, however, the land policy pendulum appears to have swung back towards legal pluralism, at least in terms of recognizing adat rights to land. Thus, the 1999 constitutional amendments recognize the existence of 'adat law communities' (art. 18B). The 1999 Human Rights Act states that traditional rights to communal land (*hak ulayat*), being part of the cultural identity of adat communities, deserve recognition and protection (art. 6). A 1999 ministerial regulation on hak ulayat even establishes a mechanism for recording and demarcating the boundaries of traditional communal land.[3] Finally, and perhaps most importantly, the new draft Agrarian Resources Act of 2004 (which is intended to replace the BAL) not only recognizes hak ulayat but provides that customary law (*hukum adat*) shall be the basis for natural resource regulation (arts 5, 8).[4] Needless to say, all these provisions have been formulated in the context of *reformasi* (reform), decentralization, and adat revivalism in post-Suharto Indonesia.

This chapter adopts a provocative argument. It suggests that to posit a basic distinction between state law and adat law is to mischaracterize the nature of legal relations in modern Indonesia. Similarly, to debate autochthonous land rights simply in terms of unification or pluralism is to mischaracterize the nature of modern land relations in Indonesia. Indeed, to base land law reform primarily on concepts of adat and adat law is not only to deny tenure security to many tens of millions of Indonesians, but also to utilize concepts and principles that are of limited practical legal value. These arguments are based on the essential point that many land relations in modern Indonesia do not fit easily into the binary classification of 'state titles' and 'adat rights'. They have not developed in relatively coherent adat law communities; nor have they been given clear and certain status by the provisions of formal law. In fact they exist in a world of legal and normative uncertainty, uncertain licences to occupy revocable at the discretion of an often corrupt and rapacious elite.

Some care needs to be taken in describing this world in terms of 'state' and 'adat', or legal 'unification' or 'pluralism'. To describe the legal dimension of land relations solely or primarily in terms of the 'state' and 'adat' obscures the fact that many tens of millions of Indonesians live without the certainties provided either by adat or established state law. Similarly, to talk of 'adat law communities' – as though they were essentially self-contained and self-regulating social entities – obscures the fact that many 'traditional communities' are not particularly self-contained, or easily defined, or able to manage their land and resource needs in a relatively conflict-free and environmentally sustainable manner. Equally, of course, some non-traditional communities will be quite effective in managing their own land and resource affairs. Yet to acknowledge this fact by including urban and migrant communities in broad adat-based movements overlooks the need to develop analytical concepts that would

distinguish when and in what circumstances a local community – any community – can regulate its own land affairs.

Not only do dualist state/adat and unification/pluralism distinctions inadequately describe the fragmented and intertwined nature of landholdings in much of modern Indonesia, they serve to obscure issues and concepts that would be of great use to practical land law reform in modern Indonesia. These issues and concepts derive from a focus on tenurial and transactional certainty, rather than a search for the system (traditional/informal, state/formal) in which particular tenures or transactions may be placed. In short, the question should not so much be whether adat ought to be recognized, but how a broad range of informal and semi-formal rights and transactions relating to land may be underpinned by greater conceptual and regulatory clarity.

This chapter does not seek to deny that legal dualism has been a historical fact in Indonesia, or that some adat law communities do exist which can manage their own land affairs, or – most importantly – that elevating the legal status of adat and adat law would grant valuable bargaining power to local communities seeking to negotiate enhanced forms of tenure security and access to natural resources. The argument needs to be precisely stated to avoid misunderstanding. In its barest form, it is simply that the dualist terms of the historical debate (state and adat), and the simplistic classification of legal choices (unification or pluralism), provide few answers to the majority of Indonesians who lack sufficient certainty of land tenure. This argument will be developed with reference to the colonial period, the BAL, and the new circumstances of decentralization.

The colonial legacy: subordination and neglect

How did this situation arise? Why do recent land policy reforms focus on 'adat law communities' and traditional rights to communal land, rather than the many tens of millions of migrant, displaced, or dispossessed groups? Why are land administration officials so fixated on title registration programmes as a panacea to all land ills? Why does urban development so often operate to dispossess poor and marginalized groups? Why do most Indonesian land transactions take place without the certainties provided either by coherent 'adat law' or by the requirements of formal conveyancing procedure?

Answers to at least some of these questions must begin with the colonial legacy. This is not to play the outdated game of blaming the Dutch. It is to argue that two particular characteristics of colonial land law helped produce, under the pressure of Suharto government developmentalism, disastrous consequences for large numbers of Indonesian land holders. These characteristics are: subordination of autochthonous Indonesian systems to formal laws and land titles, and failure to develop autochthonous systems to facilitate their evolutionary development and eventual integration into the national legal order.

Subordination of autochthonous systems

These two issues – subordination and neglect – arise in the first instance from the structure of colonial legal dualism. This dualism arose initially from the application of Dutch law to Dutch residents in the Dutch East Indies trading areas. It was subsequently confirmed in the 1854 Government Regulation for the Netherlands Indies (*Regeringsreglement*) which divided all inhabitants of the Netherlands East Indies into 'Europeans', 'natives', and 'foreign orientals'. This regulation set out the law to be applied to each of these population groups. In relation to 'native Indonesians' it established the principle that applicable laws should be written, and provided that, although such written laws should be based on native custom, custom might be deviated from in the public interest or because of the special needs of the native population (Gautama and Hornick 1983: 9). Thus the first element of subordination was established. Autochthonous systems were a potential source of state law, but apparently only when their 'rules' were reduced to writing; and in any event they could be overwritten by inconsistent regulations issued by Dutch legislative bodies.

This theme of subordination continued and strengthened under the Agrarian Act of 1870, particularly as a result of article 1 which deemed all land not shown to be *eigendom* land to be under the 'domain' of the state.[5] There were three possible interpretations of this provision (Harsono 2003: 45). First, '*eigendom*' land could mean land solely under the civil code ownership rights of '*eigendom*' and '*agrarische eigendom*'.[6] Second, as eigendom could be translated as 'ownership', it could mean land under all forms of private ownership, including adat rights equivalent to ownership but excluding the traditional community right of disposal known compendiously as hak ulayat. Third, it could encompass civil code ownership rights, and all adat rights equivalent to ownership including hak ulayat (Burns 2004: 32–7).

In practice the first interpretation was adopted (Harsono 2003: 45). All land not under civil code eigendom and agrarische eigendom rights came under the direct control of the state. Although it is true that the Agrarian Act also required the colonial administration to respect autochthonous land rights, particularly those held 'in hereditary, individual use' (see arts 2–4), these rights were not granted the same status as Dutch statutory rights (Burns 2004: 32–7). Instead, a distinction between 'free' and 'not free' state land has developed that remains of fundamental importance in Indonesia today. 'Free state land' was held to encompass all untitled land that was not in 'constant use' (*gedurig gebruik*), including forests and other areas subject to traditional communal rights. If the state granted rights over this land, the community holding hak ulayat received 'recognition money' only rather than fair value compensation (Harsono 2003: 46). 'Not free state land' encompassed cultivated or residential lands held under autochthonous rights (including individual rights of adat 'ownership').[7] In practice, while the state would not grant third party rights to this land without compensation, it was

described on cadastral maps as 'domain lands' without any reference to the rights or communities thereon (Harsono 2003: 46; Burns 2004: 19, 34–5). Additionally, titles and transactions within these areas were not sought to be recorded (other than indirectly through land tax documents, the delineation of state forest lands or applications for agrarische eigendom).

Of course almost all colonial powers passed laws that granted direct control over uncultivated traditional lands, and subordinated customary land rights to formal conceptions of title and tenure (McAuslan 2003: 59–75). And indeed, at least until recently, most post-colonial states have continued these practices of dispossession and subordination. However, in comparative terms it is striking that, unlike the situation under English law in which the status of 'native' laws and land titles was governed by detailed distinctions between conquered territories, ceded territories, protectorates, and protected States (McAuslan 2003: 65), the precise status of adat and adat land rights in the Netherlands East Indies remained governed by the relative uncertainties of the domain declaration and the *Regeringsreglement*. Could customary law be a source of state law if it were not reduced to writing? Did the state's domain extend to lands subject to individual rights of adat ownership? These issues were left unclear by the legislation, and in practice determined largely by administrative interpretation rather than extended judicial exegesis (Burns 2004: 32–7). In this, it might be noted, there are echoes of current forms of legal uncertainty in independent Indonesia (see further below).

Neglect of autochthonous systems

Another legacy of colonial land law is that of relative neglect of autochthonous systems. While these systems were subordinated where necessary, particularly so as to allow acquisition of land for colonial enrichment, very few productive efforts were made to facilitate evolutionary change in adat land rights or allow their gradual integration into the formal legal order. Again, of course, this was a phenomenon common to almost all colonial systems. However, in Indonesia the results have proved particularly disastrous as a consequence of rapid 'development' during the Suharto period. In particular, while autochthonous systems were neglected, extraordinary processes of bureaucratization, urban growth, and migration placed extreme pressure on the ability of autochthonous systems to regulate their own land affairs.[8]

Colonial legal policy allowed customary law to govern native Indonesians subject to written regulations prepared for or declared applicable to that population group. Aside from the dispossessory effect of the domain declaration, and the subordinating effect of privileging written rules over unwritten law, there was very little formal intervention in the content of adat law systems themselves. Of course, it is true that a system of native courts was established, with European judges and procedures, but at least until the twentieth century there was no real attempt to develop customary law through judicial exegesis. Apart from land tax records, there was also

no systematic attempt to record customary land titles, or record customary land transactions through standard form documentation. A comparison may be made here with Malaysia where village-based systems for recording possession, and the introduction of standard form documentation for recording land transactions, have played an important role in producing a system with markedly less conflict and insecurity than in modern Indonesia (McAuslan 2003: 79; see also Simpson 1976: 229).

In 1904, this colonial policy of relative neglect threatened to change with the draft bill to extend Dutch civil and commercial law to all population groups in the Netherlands East Indies. It is well known that this bill was defeated by Van Vollenhoven's argument that Indonesian communities had their own form of living law, which could not simply be replaced with the stroke of a legislative pen. In Van Vollenhoven's memorable phrase, the draft bill derived from:

> that barren age of dogmatic judicial intellectualism . . . when it was seriously believed that a couple of gentlemen – one in Batavia and one in the Hague – could fabricate a living law merely by publishing something in the Government Gazette and telling the courts to apply it.
>
> cited in Slaats (2003: 106)

So it was that 'adat' systems continued to govern Indonesian land relations in the last decades of colonial rule, except of course when Dutch interests and regulations dictated otherwise. The only major development came in the form of the monumental volumes on adat law (*adatrechtbundels*), prepared by Van Vollenhoven and his students. These were intended to be systematic descriptions of 'laws' in relatively self-contained 'adat law systems', although in practice they were often fragmented and based on secondary material. Van Vollenhoven estimated that there were approximately 19 adat law systems in the Netherlands East Indies, defined largely by ethnicity. Slaats notes that these volumes were:

> sometimes the only sources of information for the (mostly Dutch) government officials . . . [who] eagerly seized upon [them] in the execution of their tasks as civil servants, judges and so forth. Many of them, however, still tended to consider these descriptions had a normative meaning, and use them as if they were laws and law books like for instance the Civil Code in Dutch law. Many judicial and administrative decisions taken by colonial officials were based on a rigid and unwavering application of the rules of *adat* law which they found in these descriptions.
>
> Slaats (2003: 106)

Needless to say, this approach was quite inconsistent with the inherent dynamism and social embeddedness of property relations in autochthonous systems. Van Vollenhoven himself recognized this to some extent, although

his somewhat inadequate response was to foreshadow abrogation of each adat description after 10 or 15 years, in order to allow development of up-to-date volumes (see Fasseur in this volume, Chapter 2: 58).

It may be that over time the system of native courts in colonial Indonesia, in combination with regularly updated volumes of 'adat law', could have facilitated the gradual integration of autochthonous systems into the national legal order. I have my doubts, largely on the basis that descriptions and judgements by foreign 'experts' would have had comparatively little normative influence on autochthonous Indonesians themselves. Nevertheless it does remain an open issue, largely beyond the scope of this chapter.

What is relevant is that a number of key assumptions concerning 'adat law' were accepted by colonial policy makers and, later, by post-colonial Indonesian experts. These assumptions remain conceptually and methodologically significant in Indonesia today. They include the beliefs that, first, the Netherlands East Indies consisted of relatively self-contained and self-governing 'adat law systems'; second, the predominant and most significant form of 'adat' landholding was the 'community right of disposal' (hak ulayat), under which adat communities controlled the allocation and use of land by community members; and, third, this communal form of landholding was relatively fixed such that, while individual rights waxed and waned under its umbrella, there were very few examples of outright alienation or long-term transfer to outsiders.

The trend in modern scholarship is to contest, or at least heavily qualify, all these assumptions. For example, modern anthropologists tend to eschew the reification of autonomous adat villages by colonial scholars in favour of recognizing the complex interaction of kinship groups, hierarchical obligations, territorial loyalties, religious bodies, agricultural associations, and external influences in ordinary adat life.[9] Equally, land policy experts take issue with the widespread belief that customary law systems are essentially communalist and static in nature. Recent studies suggest that customary land arrangements are inherently dynamic in the senses that they, first, evolve in response to demographic and economic pressures, and, second, ceaselessly change as a result of strategic power interactions between internal and external participants (including the state itself).[10] The significance of both these points is that, while many Indonesian policy makers continue to conceptualize land law reform in Van Vollenhoven-like terms of 'adat law communities' and 'hak ulayat', the reality is that tenurial changes, population movements, and dynamic power interactions have produced a landholding map with very little resemblance to that studied by Van Vollenhoven and his disciples.[11]

The Basic Agrarian Law, 1960

While the Sukarno-era BAL is often presented as the flagship example of legal unification in Indonesia, in fact it established a system which continued

these key colonial themes of subordination and neglect of autochthonous systems. This was particularly so as it was applied and interpreted during the Suharto period. The BAL purports to unify Indonesian land law by repealing relevant provisions of the *Indische Staatsregeling* (Indies Constitution) agrarian act and civil code. It then 'converts' all Dutch-derived land rights, and most adat rights, into a series of new statutory titles. These titles are similar in nature to their earlier Dutch counterparts (Fitzpatrick 1997: 183).

Subordination of adat systems under the BAL

Most Indonesian commentators and policy makers repeat the mantra that these 'Western' attributes of the BAL's rights are offset by a number of adat-based features of the BAL.[12] One such feature is the curious statement in the Explanatory Memorandum that the BAL's rights are 'based upon adat'. Another is the statement in article 6 that all rights to land have a 'social function'.[13] This concept is said to reflect principles of adat law (Parlindungan 1993: 59–63), in particular, the notion discussed above that 'rights' to land are always constrained by the needs and processes of local groups.[14] Another important notion is the statement in the Explanatory Memorandum that the new land law of Indonesia arising out of the BAL will be 'based on adat law'. This statement reflects the syncretic belief that unitary law in Indonesia could be established by distilling universal adat principles from diverse and localized adat practices (Fitzpatrick 1997: 177, 185–6).

In other sections, however, the BAL clearly subordinates adat law to the formal legal order. For example, article 5 states that adat land law is 'the agrarian law of Indonesia' in so far as it is consistent with national unity, the interests of the state, and the provisions of the BAL itself. Article 3 provides that hak ulayat and 'other rights resembling it' are recognized where they continue to exist, but that they must be adjusted to conform to the national interest. Significantly, hak ulayat is not listed as a right that is converted into a statutory title by the BAL. Article 3 further provides, consistent with article 33(3) of the 1945 Constitution, that all land in Indonesia is under the 'control' of the state.

Subsequent government policy has taken these subordinating provisions to the extreme by treating all untitled land as land under the direct control of the state (Fitzpatrick 1997, 1999).[15] Although the Explanatory Memorandum to the BAL expressly states that article 3 is not intended to replicate the colonial domain declaration,[16] the Indonesian notion of state right of control (*hak menguasai negara*) has allowed the grant of rights to uncultivated and/or non-residential untitled lands without obtaining the consent of the relevant local community and without triggering the legal obligation to pay 'adequate' compensation to holders of expropriated titles. It has also been used to justify the continuation of colonial distinctions between 'free' and 'not free' state land. As shall be seen, free state land encompasses very large areas of Indonesia. For its part, 'not free' state land encompasses most

cultivated and/or residential untitled land in designated state-owned areas (Burns 1989: 19–32). While communities occupying these areas are usually allowed to remain in residence, their legal rights remain insufficiently defined and their use of the land often severely limited, particularly in declared forest areas. It is this latter limitation, in particular, that has created conflict in many parts of Indonesia (Fitzpatrick 1997: 186–7).

This notion of the state's right of control provides the greatest source of dispossession in modern Indonesia. Most significantly, both the 1967 Basic Forestry Law and its successor, the 1999 Forest Law, expressly rely on it to declare some 65 per cent of Indonesia's landmass to be state-owned forestland. This has entailed severe restrictions or prohibitions on local forest use practices; and allowed the granting of logging rights without any legal requirement to compensate or consult with affected local communities.[17] The number of people affected by this sweeping control over state 'forest' land runs into the many millions. Generally speaking, the conflicts created by this dispossession and disenfranchisement are characterized, on the one hand, by claims to land or natural resources involving an often corrupt alliance between bureaucratic and commercial interests, and, on the other hand, by local communities which have no effective recourse to state institutions, including courts of law, and which thus tend to fall back on non-state-legitimizing ideologies of 'adat' (Li 2003; Resosudarmo 2004: 117).

Because relatively few areas in Java are classified as forestlands, well over 65 per cent of land in the outer islands falls within the jurisdiction of the Department of Forests. To be sure, in some cases these people will have received temporary and/or semi-formal use rights from local district officials, a practice that reflects the importance of local-level land and resource negotiations. However, in terms of national law and forestry department policy, their usufructuary and possessory interests may be expropriated without any legal requirement to pay compensation. Indeed, somewhat infamously, article 7 of the 1967 Basic Forestry Law stated that: 'implementation of ulayat rights shall not hinder the fulfilment of the aims of this Act'.[18] While it is true that this provision was dropped from the 1999 Forestry Law, non-statutory property rights to forest land are treated as proprietary interests only in so far as they continue to exist (in the state's eyes), and are not inconsistent with statutory licences or nebulous concepts of 'national interest' (World Bank 2000: 30–1).

Autochthonous systems are also subordinated under the BAL as a result of its conversion of adat rights to statutory rights. Three different arguments are commonly advanced in this context. The first is that the adat right of the occupiers is not included in the list of rights converted to statutory rights by the BAL, and that these occupiers may be evicted or resettled without compensation (Fitzpatrick 1999). The second is that not having registered and obtained a formal certificate of title under the BAL means that whatever rights may have existed have been lost through inaction or abolition. The third, established by Regulation of the Minister of Agrarian

Affairs no. 2 of 1962 (art. 8), and applicable to many land transactions, is that transfers of ownership of adat lands without verification by the village head or chief will lead to the transferee receiving a five-year right of use only, after which time the land will revert to the state (Salindeho 1988: 157). A related argument is that all transactions outside the formal conveyancing system, under which transfers must be notarized and registered with the National Land Agency, are invalid because the governing law of land transactions is the BAL rather than the laws of adat.

All these issues illustrate the pervasive nature of tenure insecurity under the BAL, particularly as it was applied by the New Order regime. The result as of the beginning of reformasi and decentralization in 1998–9 was that only about 20 per cent of all Indonesian landholders possessed formal certificates of title, while the balance lived in a world of legal uncertainty (Walijatun 1996). Of this latter group some received a degree of tenure security from their membership of coherent and cohesive adat law communities. Yet, even these adat titleholders often lived on, or sought to exploit, land which was deemed to belong to the state and/or its cronies. Thus their rights were not solidly based on principles of legal certainty but were assertions for strategic negotiation, heavily dependent on the actions of external participants.

Those who did not reside in established 'adat law communities' – many tens of millions of Indonesians – lived in urban and peri-urban areas, or as migrant communities in areas dominated by another ethnic group. Many held semi-official documents of title, such as letters of land tax or acknowledgement of land rights. Yet, whatever rights were established by these documents remained deeply vulnerable to a range of 'legal' devices. These included arguments that the rights are invalid because they have not been converted into formal certificates of title, or were obtained outside of formal conveyancing requirements, or were inherited without proper notification to the authorities. Alternatively, they could be appropriated without adequate compensation on the basis that the land in question was under the control of the state, or was subject to privately held real estate 'rights' (for instance: *hak pengelolaan*, *izin lokasi*, and *izin prinsip*). Indeed, the 'release' (*pengadaan*) of land to the state never occurs by reference to the appropriate law, which is the 1961 Law on Compulsory Acquisition, and usually occurs pursuant to spurious assertions of 'consensus and deliberation' with affected landholders (for a full discussion see Fitzpatrick 1997: 171–212; Fitzpatrick 1999). In short, while the BAL is presented as an example of legal unification, in practice under Suharto it founded a system of remarkable normative complexity and all-pervasive tenurial insecurity.

The era of decentralization

At first glance at least, the decentralization laws since 1999 do tilt the land policy pendulum back in favour of legal pluralism, and the establishment of

adat as a bulwark against abuse of state authority. As has been noted, the 1999 constitutional amendments recognize the existence of 'adat law communities' (art. 18B); the 1999 Human Rights Act states that hak ulayat should be recognized and protected (art. 6); a 1999 ministerial regulation establishes a mechanism for recording and demarcating communally held land; and the draft 2004 Agrarian Resources Act both recognizes hak ulayat and provides that customary law shall be the basis for natural resources regulation (arts 5, 8). Additionally, law number 22 of 1999 devolves authority over land and agricultural affairs to districts and municipalities (art. 11), and authority over the management of natural sources to regional governments (arts 7, 10). At the same time, it allows the establishment of village representative councils (*badan perwakilan desa*) which may formulate village regulations in consultation with the village head.

While subsequent regulations have vacillated over decentralization of land powers, particularly in relation to the role of the National Land Agency,[19] a recent regulation – Presidential Decision 34 of 2003 – states that part of the authority of government over land affairs is to be exercised by districts and municipal governments. This includes authority over location permits for development (*izin lokasi*), granting permission to clear land, arranging the 'release' (*pengadaan*) of land for development, resolving compensation disputes relating to that release, resolving disputes over vacant land, undertaking land reform, and ascertaining and resolving disputes over hak ulayat land.

In many areas, these new provisions have been seized upon by provinces and/or districts eager to assert control over land and natural resources within their territories. Thus, for example, the West Sumatran government passed a new regulation on local government in 2000, which led to widespread changes in village organization including aligning old units of village organization (*desa*) with the traditional Minangkbau village organization (*nagari*). Each nagari may now establish a village parliament, which may receive advice from an 'adat and religion consultative council' (*badan musyawarah adat dan syarak*) and 'village adat institution' (*lembaga adat nagari*) (F. and K. von Benda-Beckmann 2003; Biezeveld, this volume, Chapter 9). Other examples of district-level regulations to recognize hak ulayat may be found in Banten and West Kalimantan (see also Moniaga, this volume, Chapter 12).[20]

In most cases, these developments have been hailed as victories for 'adat' against an overwhelming and at times tyrannical state. 'Adat' has thus become a powerful term in political discourse, a source of social and political legitimacy presented in opposition to the state. Equally, there is something of a correlation between decentralization and legal pluralism in Indonesia. District-level control over land affairs inevitably means that local 'adat' forms of land management will prevail. And, again, this gives rise to issues and discussions that are couched in similar terms to colonial debates. How can the 'living laws' of the people be recognized by the formal legal order?

How can 'living laws' be recognized and described in terms understandable to adat-outsiders?[21]

In short, in many ways the terms of the debate continue to consist of binary distinctions between the state and adat, and legal pluralism and unification. Yet these binary distinctions, and the apparent shift in favour of 'adat' and 'pluralism', tend to obscure an underlying reality of lack of progress in land policy and land law reform. The truth is that decentralization has not offered much hope for the many millions of Indonesians who live without adequate security of land tenure. Indeed, it may even be said that the focus on adat, as a key concept in legal reform, has allowed bureaucrats and legislators to produce apparently positive references to adat law and adat law communities, while avoiding more practical issues relating to conflict resolution, jurisdictional limits, urban and peri-urban informal settlements, and decentralized systems for recording rights and transactions.

For example, in relation to forestry, there has been a series of ministerial decrees establishing management rights for communities living on state forestlands through so-called 'community forestry' programmes.[22] Yet these decrees do not address the basic issue of tenure. Management rights do not include clear legal rights to own houses on state forestland, or cultivate crops, or even to exploit forest products. Similarly, the 1999 Forest Law establishes a category of 'customary forests' (*hutan adat*), but defines this by reference to the hierarchical and exclusive concept of state ownership of forest lands. Thus, again, communities living on lands declared to be state forest land retain their status as (at best) revocable licence-holders, mere occupiers whose rights depend on administrative discretion rather than clear legal definitions.[23] A focus on the analytical concept of tenure security would highlight this fact, and remove any pretence that the category of '*hutan adat*' somehow redresses the dispossessory history of Indonesian land law.

Equally, in terms of hak ulayat, it is true that the 1999 ministerial regulation does establish a mechanism to demarcate and record its existence, 'where it still exists' (art. 2). But, crucially, article 3 states that hak ulayat will not be recognized where it is currently held pursuant to land rights under the BAL, including land already released by a government agency, legal organization, or individual according to 'stipulations and processes that are valid'. Article 3 also makes it clear that these limitations apply to hak ulayat lands that have already been subject to regional government regulations. In other words, the 1999 regulation continues to deny recognition to most hak ulayat lands, simply because they are already the subject of extensive forest concession rights, statutory use rights, management rights, or real estate development permits. Thus the regulation is symbolic reform at best. It appears to recognize traditional communal rights, when the reality is that underlying dispossession remains in place. In this way, the use and abuse of Van Vollenhoven's legacy continues. Symbolic regulatory references to adat are encouraged, because adat continues to be seen as an

intrinsically viable legal alternative to state law, while the specific tenurial and transactional needs of those living on 'hak ulayat' land remain largely ignored.

A similar point may be made about the recognition of hak ulayat in the draft 2004 Natural Resources Law. Article 5 states that communal rights of customary law communities 'that are still in existence' shall be acknowledged, respected, and protected, consistent with the 'dynamic development of customary law communities, national and state interests, and the principle of the Unitary State of the Republic of Indonesia and the implementation thereof may not be contradictory to higher laws and regulations'. Article 61 also states that adat lands, in so far as they remain under customary control, shall be converted into statutory rights of ownership or use, so long as this procedure is not contrary to existing laws and regulations.

To some extent, these provisions are a significant improvement on the BAL, which as has been seen failed to convert hak ulayat into a statutory right, and indicated that it could not be used to prevent 'development'.[24] Nevertheless, article 5 (4) goes on to state that hak ulayat shall not extend to land already subject to statutory land rights or resource exploitation permits, or already held (or applied for) by a government agency, legal entity, or individual in accordance with current laws and regulations. Again, therefore, the widespread dispossession of traditional land both during and after the Suharto era has been maintained, while lip-service has been paid to the recognition of adat rights and adat law communities.

In short, recognition of adat tends to obscure a lack of real progress on land law reform. This lack of progress is highlighted if the debate is cast not in terms of adat and law, or unification and pluralism, but in terms of tenurial and transactional certainty. The following section illustrates this point through discussion of the treatment of informal and semi-formal land occupiers in reformasi and post-reformasi land regulation.

The legal status of informal and semi-formal land occupiers

Indonesian law continues to be seriously deficient in relation to 'informal' land occupiers. This is not simply a major issue in declared forest areas; it also encompasses large areas of urban and peri-urban land. This land is either designated but undeveloped state-owned land, or left vacant for speculative purposes by private titleholders. Often, it is occupied by 'little people' (*orang cilik*) who have moved from rural areas in search of employment but who are often deemed to be 'illegal' because they lack a residency card (KTP) for the new place of residence. In this situation, the fact of occupation alone does not create a property right, even if that occupation is long-term in nature. Indeed, examples abound in Indonesia of long-term occupiers, some of whom have been paid land tax and been in possession for more than 30 years, being evicted on the basis that they do not have formal rights to their land (Fitzpatrick 1997: 197).

While it is often mentioned in this context, the 1997 Indonesian law on land registration provides no basis for acquisition of title through adverse possession.[25] It only allows 20 years' possession as a basis for *proving pre-existing titles*, for the purposes of registration, and such proof applies only in the absence of any other evidence of title. Similarly, Government Regulation Number 36 of 1998 establishes a procedure only for the loss of rights to vacant land (*tanah telantar*), not the recognition of 'adverse' possessory rights. This regulation provides that land which is not being used by its formal rights-holder, consistent with the objectives and characteristics of that right, or – in the case of state land – has not been the subject of a formal application for a title by its controller (arts 5–7), may be designated as vacant land by the National Land Agency (art. 9). In this case the land falls under the direct control of the state (art. 13). However, long-term occupiers of another's land (including state land) do not receive rights by reason of that occupation. In practice, perhaps not surprisingly, the only way that long-term occupiers of abandoned or vacant state land can obtain rights under Indonesian land law is by ad hoc application to bureaucratic officials.[26] This result can be contrasted with common law systems such as that of Malaysia, where property rights arise automatically by implication of law from the fact of possession alone. These rights are 'good against the world'; they are enforceable property rights that are subject only to other property interests (such as ownership) (Maitland 1888: 296–9).

The unjust and insecure situation of informal and semi-formal land occupiers in Indonesia has not been changed in any substantive way by the draft Agrarian Resources Act. To be sure, it does create a new category of 'principal rights' to natural resources, which may be granted on application to local community members. These rights may not be infringed upon by parallel resource exploitation permits held by business entities (arts 35, 36). Thus, on a charitable view, they at least offer the potential to counteract the widespread problems created by allowing statutory resource exploitation rights to operate in areas held or utilized by local communities.

Yet, there are enormous legal issues involved both in vesting statutory resource utilization rights in 'community members' that are subject to group-based forms of customary tenure and in allowing these rights to co-exist with commercial resource utilization permits. The four brief paragraphs devoted to this new category of principal rights in the draft act accordingly raise far more questions than answers. At the least these principal rights will require very substantial regulatory and policy development before they can offer enhanced tenure security and access to resources to local community members. And even then, they will suffer from the same problem that plagues Indonesian land law in general. Rather than allowing limited rights to arise through automatic operation of law from the fact of occupation itself, as in common law systems, they rely on a suspicious and disengaged populace to apply for, and a rent-seeking bureaucracy to grant, ill-defined forms of statutory rights.

The legal status of individual adat and other 'informal' rights to land

While the draft Agrarian Resources Act does recognize hak ulayat on land not subject to existing or pending statutory rights, it does not address the vexed question of individual adat rights to land. At least the BAL (art. 56) states that adat mechanisms for acquiring ownership of land will be recognized pending development of a new law on the acquisition of land ownership. The draft Act includes no such equivalent provision. In combination with article 39, which states that all land rights and resource-utilization permits must be recorded, the result is increased legal uncertainty relating to individual (and unrecorded) adat rights of ownership or use.[27]

While it may be a controversial argument, it is suggested that to some extent this result stems from the conceptual and methodological legacy of the Leiden adat law school. Van Vollenhoven and his disciples conceived of hak ulayat (*beschikkingsrecht*) as a pan-Indonesian legal phenomenon (Burns 2004: 222–4; see also Burns in this volume, Chapter 3), under which all individual adat rights remained subject to an overarching communal right of control. Seemingly as a result of this conceptual legacy, the development and commodification of individual adat rights over time in Indonesia has not been the subject of serious legal policy attention. Yet, it is clear that the development of individualized land markets in many parts of Indonesia has been a primary source of uncertainty and conflict.

Legal uncertainty not only affects the status of individual adat land rights that do not fit under the umbrella of hak ulayat, it also encompasses the voluntary transfer of those rights in informal and semi-formal land markets. Thus, for all those transfers that occur outside the land notary (PPAT) system, the applicable law probably remains adat in nature under the pluralist legal system inherited from the Dutch. Yet this serves only to highlight the endemic legal uncertainty in informal and semi-formal segments of the Indonesian land market. What precisely is the 'law of adat' relating to land transactions? What conflicts of law rules apply in contracts between members of different adat systems? What is the legal status of land transactions involving migrant groups? To what extent is authorization or witnessing by a government official a precondition to a valid land transaction? These questions cannot be answered by simplistic assumptions that adat law is a viable legal order which does not require legislative intervention or detail to support land transactions in emerging markets.

What is striking is that these significant questions of law receive remarkably little attention in debates over land law reform in Indonesia. Instead, government lawyers and the National Land Agency continue to focus on top-down land titling programmes as the answer to tenurial and transactional land insecurity in Indonesia. There is no attempt to elevate the wide variety of semi-formal land documents into clear bases for statutory titles and transactions. There is no official attempt to record rights to land through simple decentralized processes, particularly so as to avoid over-ambitious

efforts at changing their underlying content and status. And there is no attempt to record and clarify the multitude of informal land transactions through the use of simple standard form agreements. All these issues are at the forefront of land law and policy reform in the developing world; yet their application to Indonesia appears to have been obscured by an over-reliance on concepts of 'adat' and 'legal pluralism'.

Conclusion

This chapter has argued that dualist notions of state and adat no longer serve the tenurial needs of most Indonesians; and so there is a need to develop a new typology, a new set of concepts to describe and analyse the complex needs of land law reform in modern Indonesia. This is not to deny that concepts of adat and adat law can be powerful negotiating tools in the hands of communities seeking greater security of tenure and access to local resources. Both as a non-state legitimizing ideology and as a tool in strategic land and resource negotiations, adat has proved to be particularly potent in the historical context of post-Suharto Indonesia. It is as a precise and effective instrument for law reform that it has proved less effective, and in particular served to obscure issues that would be of greater practical value to many tens of millions of Indonesians.

Notes

1 Explanatory Memorandum, General Elucidation Pt I.
2 Explanatory Memorandum, General Elucidation Pt I. As with all these impulses towards legal unification, this national law is concerned not only with the abolition of private law distinctions between 'Europeans' and autochthonous Indonesians but also with the eventual unification of Indonesia's diverse 'adat law' systems.
3 Regulation Number 5 of the Minister of Agrarian Affairs/Head of the National Land Board concerning the guidance for resolution of problems of the ulayat rights of adat law communities.
4 The draft considered is that issued for public discussion in April 2004. A revised draft was issued in May 2004. Both have been stalled in bureaucratic processes, and national parliament has yet to consider either of these drafts.
5 This provision, originally applicable only to Java and Madura, was extended to most (although not all) parts of the Dutch East Indies by a series of further regulations (Harsono 2003: 46).
6 *Agrarische eigendom* was a statutory right of ownership in 'Indonesian' land in Java and Madura that could be created through the conversion of individually held adat 'ownership' rights. For a discussion on this see Gautama and Hornick (1983: 71).
7 Although articles 3 and 4 of the Agrarian Act purported to protect individual rights of adat ownership (particularly those evidenced by writing), it was only when those rights were converted on application to *agrarische eigendom* that they fell outside the state's domain.
8 See further below.

9 See, for example, Geertz (1980: 47–8); Warren (1993: 1); Breman (1982: 189–240).
10 See, for example, Bromley and Sjaastad (1997: 549–62); Feder and Feeny (2001: 135–53); Deville, Toulmin and Traore (2002: 1–18); Platteau (1996: 29–86).
11 To illustrate this point, consider the case of Jakarta, which in 1930 had a population of 530,000. In 1995, its population was conservatively estimated at 11.5 million. An extraordinary 60 per cent of its inhabitants – over six million people – live in informal settlements. Only 20 per cent have access to safe water and sanitation. Jakarta is currently the third most polluted city in the world. See The Mega-Cities Project Global Network, *Jakarta Indonesia*. Online. Available: <http://www.megacitiesproeject.org>.
12 See, for example, Gautama and Harsono (1972: 23); Harsono (2003: 1–3); Parlindungan (1993: 51); Salindeho (1988: 239).
13 This statement also appears in article 33 of the 1945 Constitution.
14 The concept of social function is interpreted in the Explanatory Memorandum to mean that individual rights must be balanced against the interests of the community. See BAL, Explanatory Memorandum, art. 2, para. 4 (General Clarification); see also Supomo (1957: 231): 'Above all, the right of ownership should not be understood in a Western liberalistic sense, but the social function must be primarily emphasized in accordance with *adat* concepts.'
15 For further examples and discussion see Ruwiastuti (1988: 2–3); Rajagukguk (1988: 132–3); Sihombing (1980: 13–14).
16 See BAL, General Elucidation, art. 2.
17 The 1999 Forestry Law introduces a requirement for community participation in forest designation and management, but not in relation to the grant of specific licences. In practice, of course, a number of forest-using communities are consulted and/or compensated by local logging licence-holders. While this is an example of the phenomenon of locally negotiated rights and practices, it is not a mandatory requirement under forestry laws and regulations.
18 Government Regulation Number 21 of 1971 further provided that the rights of adat law communities and their members to extract non-timber forest products shall not interfere with utilization of the forests, and that the rights of adat communities could be suspended in an area where logging operations were being conducted (art. 6/1, 6/3).
19 See, for example, Government Regulation 25 of 2000 (art. 2/3, stating that authority over land affairs – including in relation to land administration, granting land rights and cadastral surveys – is retained by the central government), Presidential Decision 10 of 2001 (art. 1, stating that authority over land affairs is a matter for provincial governments; but that all existing laws and regulations remain valid and need to be ratified as part of the passage of new regulations); and Presidential Decision 62 of 2001 (exempting the National Land Agency from the decentralization process).
20 The role of adat in the reorganization of village government in Bali is discussed by Warren in this volume (Chapter 8).
21 On outsiders' confusion regarding adat see Davidson's example in West Kalimantan (Chapter 10).
22 See Ministerial Decree 677/Kpts-II/1998 on *Hutan Kemasyarakatan* (Community Forests), replaced by Ministerial Decree 865/Kpts-II/1999 and 31/Kpts-II/200.
23 The new category of 'principal rights' in the draft 2004 Agrarian Resources Act is discussed below.

24 See the BAL, art. 3; see also the Explanatory Memorandum, General Clarification, art. 2, para. 3.
25 Adverse possession is a common law concept that grants, in certain circumstances, ownership rights to long-term possessors of another's land (including state land). The grant arises automatically by operation of law. It does not necessarily require state intervention or recognition.
26 In some cases, the resulting licences may be transformed over time into statutory rights on further application to the relevant minister or governor (Parlindungan 1993: 70–3).
27 I am grateful to Robert Mitchell and Roy Prosterman for this point; see Mitchell and Prosterman (2004).

References

Benda-Beckmann, F. von and K. von Benda-Beckmann (2003) 'Between global forces and local politics: decentralisation and reorganisation of village government in Indonesia', paper presented at the Conference on Globalisation and Law in Asia, Cologne, April.

Breman, J. (1982) 'The village in Java and the early colonial state', *Journal of Peasant Studies*, 10: 189–240.

Bromley, D.W. and Sjaastad, E. (1997) 'Indigenous land rights in Sub-Saharan Africa: appropriation, security, and investment demand', *World Development*, 25: 549–62.

Burns, P. (1989) 'The myth of *adat*', *Journal of Legal Pluralism*, 28(1): 1–127.

—— (2004) *The Leiden Legacy: concepts of law in Indonesia*, Leiden: KITLV Press.

Delville, P., Toulmin, C., and Traore, S. (2002) 'Introduction', in P. Delville, C. Toulmin, and S. Traore (eds) *The Dynamics of Resource Tenure in West Africa*, London: IIED.

Feder, G., and Feeny, D. (2001) 'Land tenure and property rights: theory and implications for development policy', *World Bank Economic Review*, 5(1): 135–53.

Fitzpatrick, D. (1997) 'Disputes and pluralism in modern Indonesian land law', *Yale Journal of International Law*, 22(1): 171–212.

—— (1999) 'Beyond dualism: land acquisition and law in Indonesia', in T. Lindsey (ed.) *Indonesia: law and society*, Sydney: The Federation Press.

Gautama, S. and Harsono, B. (1972) *Survey of Indonesian Economic Law*, Bandung: Padjajaran University Law School.

Gautama, S., and Hornick, R.N. (1983) *An Introduction to Indonesian Law: unity in diversity*, 4th edn, Bandung: Alumni.

Geertz, C. (1980) *Negara: the theatre state in nineteenth century Bali*, Princeton, New Jersey: Princeton University Press.

Harsono, B. (1972) *Undang Undang Pokok Agraria*, Jakarta: Djambatan.

—— (2003) *Hukum Agraria Indonesia*, 9th printing, Jakarta: Djambatan.

Hooker, M.B. (1978) *A Concise Legal History of South-East Asia*, London: Oxford University Press.

Li, T.M. (2003) 'Situating resource struggles: concepts for empirical analysis', *Economic and Political Weekly*, 48: 5120–8.

McAuslan, P. (2003) 'Only the name of the country changes: the diapsora of "European" land law in Commonwealth Africa', in P. McAuslan (ed.) *Bringing the Law Back In: essays in land, law and development*, Aldershot: Ashgate.

Maitland, F.W. (1888) 'The Beatitude of Seisin', *Law Quarterly Review*, 4: 286–99.
Mega-Cities Project Global Network, *Jakarta Indonesia*. Online. Available: <http://www.megacitiesproeject.org> (accessed 18 September 2004).
Mitchell, R. and Prosterman, R. (2004) 'Principles related to the "Draft Law on Agrarian Resources" (Replacing Law No. 5 Year 1960)', Seattle, Washington: Rural Development Institute.
Parlindungan, A.P. (1993) *Komentar Atas Undang Undang Pokok Agraria*, Bandung: Mandar Maju.
Platteau, J. (1996) 'The evolutionary theory of land rights as applied to Sub-Saharan Africa: a critical assessment', *Development and Change*, 27: 29–86.
Rajagukguk, E. (1988) 'Agrarian law, land tenure and subsistence in Java: case study of the villages of Sukoharjo and Medayu', unpublished thesis, University of Washington.
Resosudarmo, I.A.P. (2004) 'Closer to people and trees: will decentralisation work for the people and the forests of Indonesia?', *European Journal of Development Research* 16(1): 110–32.
Ruwiastuti, M.R. (1988) 'Hak ulayat masyarakat hukum adat', Jakarta: Kerjasama Pendidikan Hukum Masyarakat, mimeograph.
Salindeho, J. (1988) *Masalah Tanah Dalam Pembangunan*, Jakarta: Sinar Grafika.
Sihombing, H. (1980) 'Preparing Indonesia's national civil law which is based on *adat* law', Padang: University of Andalas, mimeograph.
Simpson, S.R. (1976) *Land Law and Registration*, New York: Cambridge University Press.
Slaats, H. (2003) 'The imposition and radiation of Dutch law in Indonesia', in H. Slaats (ed.), *Our Laws, Their Lands*, Münster: LIT.
Supomo, R. (1957) 'The future of *adat* law in the reconstruction of Indonesia', in P.W. Thayer (ed.) *Southeast Asia in the Coming World*, Baltimore, Maryland: Johns Hopkins University Press.
Warren, C. (1993) *Adat and Dinas: Balinese communities in the Indonesian state*, Kuala Lumpur: Oxford University Press.
Walijatun, D. (1996) 'Country report: Indonesia', in Report of the United Nations Meeting of Cadastral Experts, Bogor, March. Online. Available: <http://www.geom.unimelb.edu.au/fig7/bogor/bogorreport.htlm> (accessed 11 October 2004).
World Bank (2000) *The Challenges of World Bank Involvement in Forests: Indonesia*, Washington, D.C.: World Bank.

7 Return of the sultans

The communitarian turn in local politics

Gerry van Klinken[1]

Gusti Suriansyah, the customary ruler of Landak in West Kalimantan, has an M.A. in political science from Indonesia's prestigious Gadjah Mada University. He teaches the same subject at Pontianak's Tanjungpura University. The palace (*kraton*) in Ngabang had been empty since the early 1970s. In the late 1990s a militant Dayak ethnic movement began to apply Dayak customary law to right the wrongs it saw. Malays in Landak approached the royal family in 1999 asking for the kraton to be revived. 'Do Malays have no customary law of their own?' they asked rhetorically. The prince, bearing the title *panembahan*, was installed the following year. Gusti Suriansyah hardly knows anyone in Ngabang, having become a city person. But he now feels the responsibility to go there when he can and help refurbish the decaying building.[2]

Raden 'Wimpi' Winata Kusuma became prince (*pangeran ratu*) of Sambas, also in West Kalimantan, in 2001. His uncle Uray Darmansyah was chairman of the Sambas district legislative assembly (DPRD) and suggested the revival. 'Wimpi' had never been a public figure. He was a junior bureaucrat in the district tourism office. When I spoke with him in January 2004 he still seemed surprised by the turn his fortunes had taken. He would like to be district chief (*bupati*) some day, for as he put it, 'nice clothes are not enough'.[3]

Historians do not even know where the palace of the sultan of Jailolo stood when he lost his autonomy to the sultan of Ternate in the seventeenth century. Back in the mists of time he had been one of a legendary foursome of kings around the island of Halmahera in the east of the archipelago whose warriors terrorized the seas as far as Papua. Yet today Jailolo has a sultan, an elderly and quiet man named Dano Abdullah Syah who lives in a house behind the sultan of Ternate's palace in the northern part of Ternate town, North Moluccas.

Sultanship – of the 'weekend' kind described above – has become perhaps the symbol par excellence of local identity in Indonesia's autonomy era. It is part of the communitarian turn in Indonesian politics after the end of the New Order. Identities are being revived or invented at a great rate, especially at the district level. For the researcher this is both surprising and

dilemmatic. Surprising, because the autonomy process has been more often discussed in modernizing terms of administrative efficiency and local democracy. Sultans were not meant to be part of the equation, but they are. We need to bridge an empirical gap. Dilemmatic because we as Western-trained researchers hardly know how to respond to this revival of pre-republican authority symbols. Is this a good thing because tradition integrates a society buffeted by winds of social change? Or a bad thing because it represents feudalism? Here we face a theoretical gap.

The return of the sultans is an attractive research problem. It takes us into the poorly charted yet rapidly changing empirical territory of the post-1999 autonomy regime, where unintended consequences are as important as intended ones. We also have to become reflexive, switching back and forth between observation and our own basic understanding of how Indonesian societies work and what constitutes the good life.

That the sultanist metaphor remains popular among observers of Indonesia (Loveard 1999) is actually peculiar. Sultans have not been important here for a long time. Once they represented the most highly developed form of the organized state in the archipelago (Andaya 1992; Warren 1981). But the Dutch gradually tied them all to the imperial apron strings until they became mere intermediaries in a mode of governance called indirect rule (Houben 1994; Larson 1987; Locher-Scholten 1994). By 1914 about 340 principalities had signed contracts with the colonial power, though the number is reduced to a couple of hundred if we eliminate the really tiny ones in Aceh and Timor. Most were Islamic sultanates, but there were Hindu kingdoms in Bali and Lombok, pagan ones in Timor, and tiny princedoms dependent on bigger kingdoms elsewhere.

The 1945 national revolution was aimed as much against the 'feudalism' of the past as at the colonial power. The anti-aristocratic revolt was bloody in some places (Lucas 1991; Reid 1979). Those principalities that had survived the previous century of colonial state formation were finally dismantled in the late 1950s and early 1960s (Magenda 1989). The 1960 Basic Agrarian Law redistributed their lands. Only one sultanate was left with a semblance of real influence, the house of Hamengkubuwono in Yogyakarta. Aristocrats attempted to resist the republican onslaught through their own political associations, but won little support, and they disappeared in the New Order. Occasionally republican leaders recalled the fourteenth-century Majapahit empire as a precursor of the Indonesian state, but this was more a disembodied myth of greatness than any affirmation of a real sultanate. Thus the archipelago was swept up in the global enthusiasm for republican modernity (Bendix 1978; Pine 1958). While Malaysia retained its sultans in a symbolic role, and while in the 1970s Thailand strengthened its king's hand, and Brunei even became an absolute monarchy awash with oil money like a gulf sheikdom, Indonesia's royal palaces were merely run-down tourist attractions (Kershaw 2001).

Donald Tick, through his acknowledged contributions on Indonesia to several compilations on royals worldwide (Almanach de Bruxelles 1996–2003; Hariyono and Johnston 2004; Schemmel 1995–2003; Truhart 2003), and Hans Hägerdal (2003) have made the recent history of many of these principalities conveniently available. When one tabulates them in summary form, some interesting statistics emerge. Nearly 70 of them today retain an incumbent known to these two researchers. Most are informal cultural figures (*tokoh adat*). They are in fact not all sultans. Some are panembahan or pangeran ratu (slightly less august rulers than the sultan), *pemangku adat* (literally, bearer of custom), raja (non-Islamic kings), or any of various other titles. About half could be called locally influential, usually because they also occupy a formal position in government.

At least a third of these 70-odd entities have only recently been revived. That number is growing rapidly, like a new fashion. They are the subject of this chapter and are listed in Table 7.1. This is a conservative list, limited by my knowledge. 'Revival' of a principality can take various forms, depending on the history of its predecessor. It could be, first, raising the profile of an existing institution, second, the symbolic resurrection of an entity that had been disestablished and allowed to decay in the 1950s and 1960s, or, third, the symbolic reinvention of a kingdom that had been gone for centuries. In almost every case we are dealing with monarchical symbols of legitimacy, rather than with tangible political power shifts. Local opinion makers wield these symbols in the context of local autonomy.

The sulanates

Profile-raising

The sultanate of Yogyakarta survived the anti-feudal reforms of the 1950s because it acted quickly to support the national revolution in 1945 – unlike most of the archipelago's royal houses. It has been prominent on the national stage ever since. The sultan was minister of defence under Sukarno and vice-president under Suharto. Sultan Hamengkubuwono X enhanced the house's public profile again when he supported the popular movement to overthrow President Suharto in May 1998. Even outside Yogyakarta some urged him to make presidential bids in both 1999 and 2004. Both times insufficient support led him to withdraw early. In 2003 the sultanate stood to make a bold institutional stride through a so-called 'Special'-ness Bill before the national parliament. This would automatically make the sultan also the governor of the Special Province of Yogyakarta, thus eliminating an election (Rozaki and Hariyanto 2003). It was the most radical monarchist proposal put forward by any Indonesian sultanate. However, it died a quiet death after the 2004 parliamentary and presidential elections.

Table 7.1 Recently revived principalities in Indonesia

Location	*District*	*Disestablished or end of last incumbent*	*Revived*
Profile-raising			
W. Kalimantan	Mempawah		2002
N. Sumatra	Serdang		2002
N. Sumatra	Deli		2001
S. Sulawesi	Gowa		2001
W. Java	Cirebon Kasepuhan		2002
Yogyakarta	Yogyakarta		2001
Central Java	Surakarta		2000
E. Nusa Tenggara	Kupang		2003
Resurrection			
E. Kalimantan	Bulungan	1964	2002, Sultan not not recognized by family
E. Kalimantan	Kutai	1960	2001, Sultan
E. Kalimantan	Pasir	?	2000, *Pemangku Adat*
N. Maluku	Bacan	1983?	1998 (1996?)
N. Maluku	Ternate	1974	1986, Sultan
N. Maluku	Tidore	1967	1999, Sultan
Riau	Siak	1946 (1968)	Date? Sultan H.H. Nasir
W. Kalimantan	Landak	1944	2000, *Panembahan*
W. Kalimantan	Pontianak	1950 (1960)	2004, Sultan
W. Kalimantan	Sambas	1950s	2001, *Pangeran*
Reinvention			
Aceh	Aceh	1903	1976
N. Maluku	Jailolo	1656?	2002, Sultan
S. Sumatra	Palembang	1825	2003, Sultan
W. Sumatra	Minangkabau	1815	2002, *Yang Dipertuan Raja Alam*, Pagaruyung
W. Java	Banten	1832	1985
W. Java	Sumedang	1600s	Date?

Sources: Indonesian newspaper reports; 'Almanach de Bruxelles' (1996–2003); Hägerdal (2003); <http://www.riaulingga.com/sumatra>; Quinn (2003).

Other existing sultanates were also raising their profiles. Associates of the royal house in Surakarta, neighbour and historic rival of Yogyakarta, proposed in 2000 that it should be reinstated at the head of a Special Region, a status it lost due to its pro-Dutch stance in the late 1940s.[4] This, too, went nowhere. In West Kalimantan, Dr Mardan Adijaya Kesuma Ibrahim, panembahan of Mempawah since 2002, has a Canadian Ph.D. in eco-toxicology. He once taught agriculture at Tanjungpura University. His father, former West Kalimantan deputy governor Jimmy Mohammad Ibrahim, asked him to take charge of the kraton at a time when ethnic conflict was brewing. At first reluctant to compromise his scientific career,

he soon adopted the role with energy. He teaches Malay martial arts to a palace guard (Laskar Opu Daeng Menambon) that he claimed had fifteen thousand members. Others thought the real total was nearer one thounsand. The police quietly asked him to disband it, to which he obliged. As we shall see, another sultan's militia, in Ternate, was a significant factor of instability in 1999. Indonesia had no culture, Dr Ibrahim told me. Only its regions did. When things are uncertain, he added, Dayaks run to the longhouse, while Malays run to the palace, to become one there. He would like to be bupati of Pontianak district.[5]

The new crown prince of the Kasepuhan royal house in Cirebon became the spokesperson for a vigorous but unsuccessful movement to carve a new province of Cirebon out of the existing West Java province (*Jakarta Post*, 9 January 2002). He also produced a tabloid named *Kraton* and a VCD to educate the public about his kraton's history.[6] Then, there is the district government of Gowa that challenged the South Sulawesi provincial government to hand back 60 hectares of prime land in the capital Makassar, on the grounds that it had belonged to the once-glorious sultan of Gowa. This too was unsuccessful (*Kompas*, 8 November 2001). Meanwhile, the sultanate of Deli, ruled by a man who was also a major in the Indonesian armed forces, attracted media attention against its own will. In October 2001 another member of the Deli royal family appeared on television with armed men saying he was leading a Free Deli Movement. He said the movement went back to 1986 and was allied with the Free Aceh Movement to the north. Its supporters evidently included landless people resisting the invasion of 'customary' sultanate land by palm oil plantations (*Suara Pembaruan*, 11–12 January 2002). Nothing more was heard of this movement before or since. Moreover, the nominal raja (*usif*) of Kupang, long a respected local figure, raised his profile in 2003 when he took part in a West Timor campaign to retain some oil rights for Indonesia after former Indonesian colony East Timor became independent (*Kompas*, 14 April 2003; Farram 2003). Finally, another royal house that received a publicity boost over an international territorial claim involving their former domain is Bulungan, East Kalimantan. Some members of this family were vocal on behalf of Indonesia in the Sipadan and Ligatan Islands dispute with Malaysia in 2002.

Resurrection

Resurrection occurred in several sultanates in Kalimantan and North Maluku that had been disestablished during the anti-feudal reforms of the 1950s and 1960s. Their ruling families had not kept the throne even nominally active. Some had suffered physically at the hands of Indonesian nationalists. The government in Jakarta detained the family heads from Pontianak and Ternate in the 1950s for siding with the Dutch during the national revolution of the late 1940s. For the Pontianak family this was the second blow. The occupying Japanese had massacred nearly the entire family for alleged anti-Japanese

plotting in 1943–4 (Davidson 2002: 78–9). Much of the Bulungan family, meanwhile, was murdered by the Indonesian military in 1964 for leaning towards Malaysia. These latter deaths came at the height of an aggressive nationalistic campaign called Confrontation (*Konfrontasi*) that President Sukarno had launched against this newly independent, neighbouring country.

Eight of the nine principalities in this part of Table 7.1 filled the vacancy after the end of the New Order. Always there was a pronounced local political connection. A local constitutional monarch could lend gravity, and often a certain ethnic inclination, to the office of district chief or provincial governor.

Ternate was chronologically an exception, but no less a part of local politics. Its sultanate had been revived under Golkar's sponsorship at the height of the New Order. The sultan would appear on the Golkar hustings during the once-in-five-years national elections. The way he transformed his role after the resignation of President Suharto in May 1998 illustrates nicely how aristocracy is acting out new if not uncontested roles at the local level in many places around Indonesia.

In 1999 Sultan Mudaffar Syah of Ternate took part in a rapidly growing local movement to demand that North Moluccas be carved out of Moluccas province as its own province (Van Klinken 2007). As the lobbying in Jakarta began to bear fruit it became clear he would no longer be satisfied with a symbolic role but wanted real political power in the coming new province, perhaps like the sultan of Yogyakarta. Everywhere in Indonesia at this time, local autonomy was stimulating power struggles among local elites. The traditional charisma of a sultan was a useful asset in the struggle, but it was not enough by itself. Sultan Mudaffar's aggressive style – which included a sizeable militia force – was not matched by sufficient alliance-building skills.

He soon found himself facing a broad opposition alliance that based itself around notions of modern Islamic egalitarianism. Curiously, this alliance also felt the need for a sultan, albeit a mere figurehead. This led in October 1999 to the installation of the sultan of Tidore on a throne that had been vacant since 1967. Thus the power struggle for local hegemony in North Moluccas became a struggle between two sultans. This rivalry had a history. Colonial indirect rule on the small islands of Ternate and Tidore had worked through their respective sultans to create a spatially divided urban society. Northern Ternate was closed and practised a rather indigenous form of Islam. Urban space was organized around the sultan of Ternate's palace, as in a Javanese kraton town. The sultan of Tidore played a less influential role in Tidore and southern Ternate. His was a cosmopolitan society of migrants from around the world, with a more orthodox religion. To complete the ancient mythico-historical pattern of four sultans – Ternate, Tidore, Bacan, and Jailolo (Andaya 1993; Fraassen 1999) – two other nominal sultans were also reinstalled at about this time, in Bacan and Jailolo.

Things went badly for the sultan of Ternate. His militia was not up to the job of projecting his will. Armed opponents forced him out of the palace after a dramatic confrontation in December 1999, and he went into exile to Minahasa for a time. The governorship of the new province eventually went to a candidate associated with the alliance that had opposed him. The sultan of Bacan, a highly educated man who had been careful to balance his allegiances to both Ternate and Tidore, was appointed head of the district of North Moluccas, one of several districts in the similarly named province of North Moluccas. Neither the sultan of Tidore nor of Jailolo played a political role after this.

Similar post-1998 dynamics were at work to revive sultanates in East and West Kalimantan. Only one, Mempawah, aimed directly at political power, though with less determination than Ternate had done. The sultan of Kutai had become fabulously wealthy in the 1920s and 1930s through royalties on Balikpapan oil (Magenda 1991), but this all came to an end when the sultanate was disestablished in 1960. The new regional autonomy laws of 1999 returned a substantial proportion of hydrocarbon wealth to those districts that yielded them. Kutai district became the wealthiest in Indonesia (Van Klinken 2002). This time not the sultan but the district chief controlled this wealth. District chief Syaukani, a commoner, adopted a populist style, handing out school buses and teacher bonuses all over his district. The magnificent new palace he built for the reinstated sultan, who had till then been a taxation official, was part of a riverside tourist theme park that included a cable car 1.3 km long. Symbolic spectacle with an eye on the tourist dollar was also the theme of the splendid Third Nusantara Kraton Festival (Festival Kraton Nusantara, FKN III), held in this new palace in September 2002. This in turn was part of the annual Erau Festival, which has been showcasing Kutai Malay, Banjar, and Dayak culture for many years and has grown ever more lavish since 1999 (*Kompas*, 24 September 2001; *Jakarta Post*, 21 September and 2, 19 October 2003).

Bulungan, in the northeast of East Kalimantan province, also fell on hard times in the 1960s. Much of the family was murdered in April 1964, in circumstances that pointed to the populist military commander Brigadier General Soeharyo (Magenda 1991: 60–1). It is now also being resurrected, although hesitantly and amidst considerable internal squabbling. In 2002 one member of the family who lives in Malaysia came over and had himself installed in a ceremony. But the rest of the family disagreed, and he soon fled back to Malaysia and was not seen in Bulungan again. Base motives seemed to be at work. Hundreds of thousands of dollars in oil royalties from the Tarakan field were supposed to be lying in a bank in the Netherlands, just waiting for a legitimate claimant (*Kaltim Pos*, 29 October, 2 November, and 24 December 2002; *Radar Tarakan*, 27 September 2003). The more cautious majority of the Bulungan family have won district government backing to build an attractive museum on the site of the kraton

burned down in 1964. They use it to hold meetings of the new kraton association, Kerabat Istana Kesultanan Bulungan. Kutai inspired the district to lavish more money on its own royal Birau Festival, started in 1991. The local newspaper said in 2003 that the festival should remind people of the trauma the Bulungan royal family had experienced at the hands of the Communist Party of Indonesia in 1964. But the Bulungan district is not wealthy like Kutai. The district chief was not in a position to fund anything so grand as the Erau Festival. Sayid Ali Amin Bilfaqih, a son-in-law to the late Raja Muda of Bulungan, is a senior adviser to the current district chief, and could be interested in the post himself. He told me he believed a sultanate added 'authority' (*wewenang*) to anyone in government, especially in these chaotic times (*amburadul*). Bulungan is a 'Bulungan Malay' district, and the kraton is clearly its identity symbol.[7]

In West Kalimantan the resurrection of at least three sultanates has been intimately connected with provincial and district ethnic politics, as Davidson (2002) has shown. In late 1996 and early 1997 angry Dayaks in the northern part of the province attacked thousands belonging to a migrant minority from the island of Madura, off Java's northeast coast. Dayaks then applied 'customary law' to all and sundry. Their militancy was rewarded when several district chief positions passed to Dayak hands. Malays, about equal in numbers to Dayaks, soon adopted the same cultural idiom in the struggle for local political hegemony. In 1999 they also attacked Madurese, who thus became the unfortunate whipping boy for both major ethnic factions. The Sambas kraton, one of a dozen or so principalities in West Kalimantan, had fallen into disrepair after it was disestablished in the 1950s. But the 1999 violence between Malays and migrant Madurese turned it into an important Malay identity symbol. Afterwards, for example, the Sambas football team made a thanksgiving pilgrimage to the sultan's grave after success on the field (*Equator*, 21 November 2000). The palace's hasty resurrection in July 2001 had to do with the Malay elite's need for a cultural rallying point in its rivalry with Dayaks for control over newly autonomous administrative units. Sambas district was in 1999 split into two, one clearly for Malays and the other for Dayaks. This was the stuff of local identity politics in Indonesia after 1998. The Sambas kraton lies in the Malay part. Its new incumbent Raden Winata Kusuma, introduced above, is a grandson of the last sultan of Sambas. He immediately became a sought-after Malay spokesperson by officials and the media (Davidson 2002: 325–6).

The Landak sultanate became a similar focus for Malay solidarity in the new district of Landak when a new prince (*pangeran ratu*) was installed in 2000. The principality had not survived the Japanese occupation. The new incumbent Gusti Suriansyah is a political scientist. He is a moderate who talks what is by now a commonplace language of ethnic 'cross-cutting power sharing', which means Dayaks should have a role as well as Malays (*Kapuas Post*, 11 February 2003).

As in Landak and Sambas, so in Pontianak political interests seeking to create a focus for Malay claim-staking over against Dayaks looked to revive a sultanate. The grave of Pontianak's founding sultan had long been a place of pilgrimage, more popular than in Sambas. He is honoured as the father in 1771 of the city of Pontianak. The family has an Arabic lineage that makes it a less than perfect symbol of Malay hegemony. Nevertheless, the Malay association Lembayu (Malay Brotherhood Customary Council, Lembaga Adat dan Kekerabatan Melayu) started in early 2000 to rehabilitate the name of the last sultan, Syarif Alqadrie Hamid II. The Republic of Indonesia had imprisoned him in the 1950s for allegedly working with the notorious Raymond ('Turk') Westerling against Indonesian nationalists while still a Dutch military officer. In January 2001 the kraton was 'revived' with a big ceremony, and in January 2004 a new sultan was installed. He is a nephew of Hamid II (Davidson 2002: 351–2; *Kompas*, 30 January 2002; *Equator*, 23 February 2003). I happened to attend the inauguration. It was a grand event with bright costumes and a display of aerobatics by the Air Force.

Reinventions

Some revival efforts have been complete symbolic reinventions. The original entity disappeared so long ago that there is no longer any question of a living connection. The sultanate of Jailolo, no longer meaningful since the seventeenth century but revived during the post-New Order struggles for control of North Maluku province, is a good example. A sultan of Jailolo was needed during the struggle for control over the new province in 1999 to complete the legendary foursome of sultanates in North Moluccas, as discussed above.

The sultanate of Banten, once the domain of the legendary bearer of Islam Sunan Gunung Jati but annexed by the Dutch in 1832, now has a government-subsidized 'reconstruction team' led by T.B. Ismetullah Abbas, who calls himself Junior Sultan (*Sultan Muda*) (*Pikiran Rakyat*, 8 February 2003). He is a great admirer of the Kutai sultanate. His committee restricts itself to cultural and religious activities, but in today's governance climate these can also have a political meaning. Banten was recently carved out of West Java as a new province, one of several since 1998. Economics was probably the key – Jakarta's international airport is located in Banten province – but Banten's glorious past was among the arguments used by its lobbyists in Jakarta. However, the new province's governor refuses to attend Ismetullah's seminars. One senses he regards him as a threat (*Pikiran Rakyat*, 25 November 2002).

The Minangkabau kingdom of Pagaruyung went under after the Padri Wars of 1803–37, a Wahhabi reform movement in West Sumatra directed against the aristocracy. Some of the most committed republicans in the Indonesian nationalist movement from the late 1920s onwards came from Minangkabau. They often held up Minangkabau's nagari as an example of

indigenous village-level republicanism. But in 2002 a committee of local notables persuaded descendants of the Pagaruyung house to invite the sultan of Yogyakarta to come to the museum or palace of Pagaruyung to receive a royal title. Minangkabau graduates from the university in Yogyakarta had suggested inviting the sultan, who was no doubt pleased to expand his influence to West Sumatra (*Jakarta Post*, 17 April, 1 May 2002).[8] The committee, with the acronym LKAAM, in fact has a long history as an elite ethnic lobby in the early New Order period (Amal 1992). Its leaders Taufik Thaib and Kamardi Rais Simulie are local Golkar apparatchiks. Thaib was installed as sultan in 2002 (Tick 2004). Both men were at the heart of the highly charged movement in 2001 to prevent a state-owned cement factory from being privatized and falling into foreign hands (Murray 2001). However, an odour of corruption hangs about them ('WALHI: Drs. Hasan Basri Durin dan KKN', 1998).

Elsewhere, reinvention of the sultanate is a piece of cultural fantasy on the part of well-heeled urban intellectuals, or even propaganda by a separatist movement. The Sumedang kingdom in West Java experienced its sunset in the seventeenth century. Yet in 2002 a cultural foundation named Yayasan Kepangeran Sumedang (Sumedang Princely Foundation) managed to raise enough funds to send a troupe of 150 dancers in the name of this kingdom to the FKN III in Kutai (Lugito 2002: 16–21). The sultanate of Palembang collapsed in 1825 after a Dutch military assault, but today it has a sultan again, a man named Prabu Diraja who adopted the name Mahmud Badaruddin III (Almanach de Bruxelles 1996–2003). He never makes waves in the media, but did send a cultural delegation to the FKN III (Lugito 2002: 16).

Sometimes the mere mention of a long-gone kingdom lends prestige to a post-1998 politician. Observers said that the new governor of West Nusa Tenggara province was elected in 2003 because he was a descendant of the family that once ruled the Sasak kingdom of Selaparang in Lombok. This kingdom went under to the Balinese in the 1740s (ICG 2003: 22). Those who backed one of the two Golkar candidates for mayor of Bima city in Sumbawa tried the same tactic but failed. Their unsuccessful candidate belonged to the royal family of Bima, a kingdom that was disestablished in 1951 (*Bali Post*, 30 May 2003).

Separatists have appealed to royal history as well. The once glorious sultanate of Aceh eventually succumbed to Dutch military superiority after the 1873 invasion. What was left of its aristocratic dependants was decimated in the social revolution of 1946. But Free Aceh Movement supreme leader Hasan di Tiro, from his exile in suburban Sweden, has made much of a family connection he says he has with the last sultan. He promises that a free Aceh will be a sultanate. No doubt this is a tactical manoeuvre rather than a sultanistic ideology for the future. He needs it to bolster his argument that Aceh's sovereignty has remained intact since 1873. Certainly few in Aceh have used sultanistic language to speak about their

movement. Nevertheless, the sultanate idea is part of what makes the Free Aceh Movement different from the anti-aristocratic Darul Islam rebellion of the 1950s.

Getting to work

Overarching all these local efforts to raise profiles, resurrect dormant kingdoms, or reinvent them completely for the public imagination is a loose network of communication among the sultans and kings of Indonesia. The sultan of Yogyakarta, their most enviable success story, accepts invitations to visit other kraton and receive titles. The first festival, FKN I, was held in Solo in 1995, paid for by the government tourism department. At the same time the sultans formed a more businesslike Communication Forum for the Kraton of Indonesia (FKKKI). An even more splendid FKN II, and another meeting of FKKKI, were held in Cirebon in 1997. A month after Suharto's resignation ushered in feverish reform efforts, the 14 member rulers held an unscheduled forum in Solo to declare their support (*Jawa Pos*, 15 June 1998). After some delay due to the economic crisis, FKN III was eventually held in Kutai, East Kalimantan, in September 2002. Membership had grown to 34, including several newly reconstituted kraton. This time, after another bland statement about culture and national identity, the sultan of Ternate added a surprising rider. The rulers had all agreed, he revealed, that they really wanted their land back. 'In the old colonial days', he said:

> we kings and sultans owned concessions to forests, mines and so on, because that was our traditional right. Now, after independence, the sultans have ironically been robbed of their rights. The sultans are impoverished, whereas the conglomerates grow rich . . . Once we get back home, we will each fight to demand the rights of which the government has robbed us.
>
> Lugito (2002: 19)

He was no doubt thinking of the gold mine on Halmahera, which lies on land customarily considered his. The sultans of Solo, of Cirebon, and others have also been busy making inventories of lands they feel belong to them.

In September 2004 the sultan of Yogyakarta hosted FKN IV. An associated seminar moved forward the sultans' claims to moral leadership. They supported the idea – actually it is a standing New Order practice – of customary councils (*dewan adat*) that build local cultural knowledge. The idea was to combat a long list of evils – 'ethnic conflict, separatism, national disintegration, chauvinism, primordialism, and exclusivism'. Local newspapers enthusiastically covered the pomp, the arts and crafts, and the tourism potential, but their opinion columns warned at the same time against 'reviving feudalism', by which they meant royal privileges in government (*Kedaulatan Rakyat*, 29 and 30 September 2004).

We now know enough about the return of the sultans to make some generalizations about how they go to work politically. We should not imagine a turn towards real monarchy. The sultan of Yogyakarta remains the only traditional ruler with real powers, which he keeps separate from his symbolic role. The separation would have narrowed if the 'Special'-ness Bill had become law, but this initiative died late in 2004. Only one other customary ruler – the sultan of Ternate – seriously tried to emulate Yogyakarta in the window of change after 1998, and he failed. At the most, if these two sultans have their wish, the kraton communication forum FKKKI has the potential to grow into something like the fairly toothless Malaysian Council of Rulers.

Clearly the sultans are close to the heart of power at the district and sometimes provincial level. The examples of sultans adopting opposition stances are few and ambiguous at best. Local autonomy has significantly increased the powers of the district chief and governor. Some of the reviving sultans aspire to these positions themselves, taking the long success story of Yogyakarta as their inspiration. Occasionally such ambitious sultans have acquired physical force of their own in the form of palace guards trained in martial arts (Ternate, Mempawah). Others assist one of the factions aspiring to district chief (Sambas). Sultans' palaces have also been foci of activism to establish new districts or provinces (Cirebon, Ternate).

Mostly the sultans adorn an existing district chief with symbolic prestige (such as in Kutai). This is also their most popular role. Several North Moluccan informants told me that they had always respected the sultan of Ternate, until the moment he began to engage in 'practical politics' for the governor's position.

Most sultans support Golkar. Their families have long histories of Golkar loyalty (Yogyakarta, Ternate, Bulungan, Mempawah). None supports parties other than Golkar, though some are non-party-political. Culturally creative they may be, politically they are thus devoid of new ideas.

What about ethnicity and religion? Sultans in the strict sense (that is, excluding the non-Islamic Balinese and Timorese princes) are by definition Islamic. But they practise a more indigenous or traditional kind of religion than the scripturalist varieties increasingly popular among urban Indonesians. In Kalimantan, and possibly Sumatra, religion is not a particularly remarked-upon aspect of the sultan's role. Local identity politics there place more store on ethnicity than on religion. The principalities are part of a resurgent Malay identity. Across Kalimantan Malayness is seen in terms of local competition with equally indigenous Dayaks, while in Sumatra it is an emerging pan-Malay phenomenon against non-locals.

But elsewhere modern scripturalists have accused the sultans of religious heterodoxy. This was the rhetorical heart of the dispute in North Moluccas in 1999. Scripturalist moderns have also been the sultan of Yogyakarta's strongest opponents. The argument combines religious with social themes. In their eyes, sultans are both heterodox and feudal.

I know of no opinion poll measuring how people feel about the sultans. Most locals probably sympathize. They regard them as symbols of their region, but not as 'our king'. A sultan does not exhaust the possibilities of local identity. I have met a small number of people who either sympathize actively or else are apathetic or even hostile. The first group feel a sense of protection in his presence. They may be related to the royal family, or live around the palace. It is they who get dressed up to attend palace events and volunteer when the call goes out for help. The apathetic or hostile group feel that way for various reasons. Some belong to ethnic groups excluded from the sultanship, such as Dayaks in Kalimantan. Others hold strong religious beliefs in which kingship has no place. Others again remember the republicanism of the 1950s and regard sultanship with distaste as nothing but 'feudalism'. That republican opinion is now such a minority affair is the real surprise in this story.

What does it mean?

Although the return of the sultans is part of the growth in local autonomy since 1998, scholars of autonomy have not yet noticed it. Studies of autonomy are dominated by public policy specialists interested in budgets and service delivery (Turner et al. 2003), and by political scientists interested in centre–periphery shifts (Aspinall and Fealy 2003; Hadiz 2003; Kingsbury and Aveling 2003). Even the growing literature on ethnicity and autonomy has not taken it up (Holtzappel et al. 2002; Sakai 2002).

Sultans have not had as much prominence since the dying days of colonial indirect rule. The last time they had a role was when the Dutch Lieutenant Governor-General Van Mook relied on them to support his doomed experiment in federalism in the late 1940s (Yong 1982). He was leading the Dutch attempt to restore the colonial empire after the Japanese occupation had wrested it from them. Aristocrats in the outer islands were his key allies against the nationalists in Java. It is striking that the revival of local units of governance has gone hand in hand with revived symbols of sultanism, if not of sultanist institutions.

Since then artistocratic fortunes have revived only once, and briefly. After the New Order began in 1965–6 the military used the sultans as part of their campaign against left-nationalist parties. Burhan Magenda's account of the declining aristocracies of Indonesia went as far as to say that the early New Order looked like a 'revival of elements of Van Mook's federal rule: strong demands by the regional indigenous rulers to be governors and regents, protection of the rights of minorities, and the demand for '*kemajuan* dan *pembangunan* (progress and development)' (Magenda 1989: 10).

This persistent association with what the Africanist Mahmood Mamdani (1996) would have called 'decentralized despotism' is underscored by Max Weber's use of the label 'sultanism' for an Ottoman-style personalized authoritarianism (Weber 1947: 355). There is an uncomfortable divide

in the Western literature on sultans in Indonesia. On one side stand liberal observers who disapprove of the sultans. In step with Indonesian republicanism, these observers employed the term 'sultanism' in the 1990s as a negative metaphor in biographies of General Suharto, even where there were no real sultans (Loveard 1999; Vatikiotis 1993). The metaphor had its origins in the late 1960s, when the failure of many newly independent nations to meet the high expectations of modernization theory was ascribed to a culturally rooted authoritarianism (Huntington 1968; Manor 1991; Pye 1985).[9]

However, today's Indonesian sultans represent themselves not as dictators but as standing for custom, identity, local community, and the common good. Western political philosophy appreciates the 'common good' as well. The question of how to keep both the community and the freely choosing autonomous individual within the bounds of the Enlightenment project has been at the heart of debate between communitarians and liberals since at least the time of Joseph de Maistre.[10] Where critics of liberalism have in the past often come from the left and quoted Marx, Nietzsche, or Rousseau, today a new generation of communitarians quotes Hegel and Aristotle to highlight a self that is inescapably 'situated'.

Some observations around the return of the sultans have a communitarian cast. George Quinn ends his description of the veneration at the holy graves of former sultans in Java by concluding that this is an important component in political legitimacy. It is a matter, he argues, of 'powerful age-old local practices that will not lie down and die' (Quinn 2003: 19). Roger Kershaw (2001: 159) similarly ends his survey of Southeast Asian monarchies by concluding that 'the charisma of monarchy should provide a more potent source of legitimization for the modern state than untried or turbulent democratic competition can do'. Dennis Galvan (2000) argues, in a more sociological way, that it is not so much their antiquity that can make customary institutions a significant (and valid) source of unity, but rather the fact that they have been reinterpreted in an inclusive way. This gives the Yogyakarta sultanate, for example, a positive, integrative value in a situation of potential communal conflict.

Indeed, the idea that the returning sultans could bring with them renewed social harmony should not be dismissed lightly. The word 'atavism' used by some sceptical observers to dismiss this interest in the past is too harsh (Wee 2002). The genuine popularity of the Yogyakarta royal house across the social spectrum is at least partly due to a conscious reinterpretation of its own meaning in more inclusive ways in recent decades. The sultan's official reinstallation as governor of Yogyakarta in 1998 was preceded by an installation 'in the name of the people' led by a pedicab driver named Tukiran (*Bernas*, 29 July 2003). Intellectuals have produced numerous coffee table books about the sultanate,[11] and his palace sponsors popular as well as high arts. When popular disgust with the 'political elite' was at its height during the manoeuvres against President Abdurrahman Wahid in 2001, the sultan declared: 'Yogyakarta is a forbidden zone for the political elite' (*Kompas*, 30

May 2001). The Javanese needed a 'counter culture', he said another time, to cleanse their language from the co-optation it had suffered at the hands of the corrupt and centralizing New Order (*Jakarta Post*, 6 November 2002). No one took him to task for hypocrisy.

Sultanist symbols evoke place, as much as they do hierarchy, and this helps account for their popularity. They also represent social conservatism and political stability. The functional, Durkheimian ideal of an indigenous *conscience collective*, a sacred canopy restored to wholeness, has a romantic appeal. Like the ethnicity of which it is a part, the return of the sultans is thought to accord with integrative age-old customs. It represents 'social capital'. It is the antidote to what Giddens called the disembedding of modernity (1991: 18–22).

Elsewhere the revival of interest in sultans has been an entirely praiseworthy cultural phenomenon – a focus for Malay literary festivals (especially in Sumatra's Riau and Deli), for efforts to preserve heritage architecture, for a rediscovery of indigenous forms of Islam. Even where it is an embryonic political phenomenon, it is as well to remember that the developmentalist New Order created real alienation among Indonesia's poor. Post-New Order democratizing reforms often added insecurity. Ethnicity, indigeneity, custom, and myths of place offer a secure imagined kinship amidst disaffection and anxiety.

Most Indonesians claim an ethnic identity that in fact coincides with the memory of these principalities. The greatest ethnic variety occurs in thinly populated eastern Indonesia, where the number of tiny principalities up until the late colonial era was high. For example people in East Kalimantan, whom anthropologists homogenize as Malays, identified themselves to the 2000 population census as Banjar, Berau, Bulungan, Kutai, Pasir, or Tidung. These had all been river-mouth mini-principalities, some vassals of others, scattered around the coast. The boundaries of these principalities often became reified in modern administrative boundaries as today's districts, which is precisely the level of government that won greater autonomy in the 1999 laws. In other words the return of the sultans, especially outside Java, probably means something to ordinary residents of the district, as well as to the sultan himself, even if they do not regard him as their sovereign. Java's large kingdoms have by contrast produced a small number of ethnic identities, each comprising millions.

The return of the sultans is often described with a language of adat (custom). This is the same language used in the emancipatory indigenous peoples' movement (Barnes et al. 1995). Popular movements of resistance against industrial land grabs sometimes adopt the name of the sultan who 'owns' the land. Malays demonstrating before the North Sumatra governor's office in mid-2000 over land in eastern Sumatra invoked the names of the sultans of Deli, Langkat, and Asahan (*Media Indonesia*, 23 June 2000). Sultanship should not be read only as oppressive hierarchy. For those at the

bottom of the social pyramid, it can represent protection, a sense of security from above. Patrimonialism has been a social reality in Indonesia for a very long time, as an abundant literature testifies. Many examples in the foundational paper by Eisenstadt (1973) were drawn from Indonesia. In short, the communitarians point out correctly that the sultans are a significant and generally positive part of the local symbolic landscape.

Nevertheless, the communitarian argument fudges a major problem. It simply ignores the domination by foreign and traditional Indonesian elites to which Indonesian republicanism was supposed to be the answer in 1945. The return of the sultans has been contested on precisely such grounds. The bill to automatically make the sultan of Yogyakarta also its governor met with a storm of protest from local newspaper commentators, who said it was an obstacle to democracy (Nugroho 2002; Rozaki and Hariyanto 2003). The main reason opponents gave for resisting the sultan of Ternate in 1999 was that, while they respected his robes, this was no longer the time for 'feudalism'. The environmental organization WAHLI (2001) warned that reviving the myths of the kingdoms whose boundaries more or less coincide with today's autonomous districts could result in destructive dynamics of ethnic cleansing and ecological damage. Portraying the reenchantment of the sultans as a revival of good adat indigeneity over against bad modern developmentalism is therefore problematic. Most sultans do not take part in the grassroots movement of indigenous resistance called AMAN. Among the few exceptions was the late Raja Rahail in the Southeast Moluccas (Laksono 2002). For their part, members of the indigenous peoples' movement in Indonesia have rejected the sultans as historically unauthentic representatives of their movement (Zakaria 2000: 52). Notions of divine kingship surely sit uneasily with the emancipatory ideals of a resistance movement. Yet these notions live on in the symbols of the kraton today.[12] The novelist Pramoedya Ananta Toer, one of the last voices of 1950s-style republicanism, in his 2001 end-of-year reflection traced Indonesia's present chaos to the Javanese aristocracy, who 'married colonialism with indigenous feudalism'. They survived the 1945 revolution, he wrote, and 'are today called Golkar' (*Kompas*, 2 January 2002).

The sultans play a symbolic role in an emerging local dynamic in which the stakes include bureaucratic power and control over land. True, not all the revived sultans are on the side one might expect. Some are consciously refashioning the myths of rule to embrace dialogue and equality. But others seem eager to rebuild the culture of deference eroded by modernity. They echo the militarization of culture and its co-optation by the developmentalist state that flowed from books such as those by Van Peursen (1988) and Moertopo (1978).[13] Written at the height of the New Order, these two authors thought nothing of hitching the vast diversity of human belief and practice to the wagon of what Scott (1998) called 'certain schemes to improve the human condition' – whether economic development (Van Peursen) or military dictatorship (Moertopo).

So who is right, the communitarians who say sultans and adat are integrative positives, or the liberals who say they are regressive and potentially authoritarian negatives? Communitarian ideals do have a valid place in Indonesian democracy. True, the New Order drew on proto-fascist European ideas of the 'organic state' to justify its non-democratic rule (Bourchier 1996). But communitarianism was also deeply ingrained in the national liberation movement that eventually brought Sukarno to power (Reeve 1985), and it is essential to the populist oppositional cultures in Indonesia today. Integrative symbols are important, also at the local level where politics has for so long been constrained by Jakarta. The republican tendency to centralize power has made local symbols of place attractive. The sultans can play a positive role in local struggles against powerful outsiders for acknowledgement and a sense of place. It is this, rather than the deference they evoke, that accounts for most of the popularity the sultans enjoy. That is legitimate, even if in reality it means the sultans merely lend their gravity to the office of district chief.

But symbols can be a problem too. The more hierarchical a symbol of traditional rule is, the more attractive it has been to imperial forces interested in co-opting it. This has been true of the sultans above all, and remains true today. More importantly, local politics face practical problems that cannot be solved by symbols alone. The local state needs to provide for the poor, build inter-communal respect, educate and heal people, protect the environment, and guarantee a secure space for political discussion, to name but a few. These problems can be solved only by widespread participation. Democratic republicanism is not yet a spent force in Indonesia.

Notes

1 I would thank the royal families of Mempawah, Sambas, Landak, and Bulungan for time generously given, and for collegial criticism and help Hans Hägerdal, Paul Hutchcroft, Joel Kahn, Ward Keeler, Sandra Moniaga, Martua Sirait, and Donald Tick, and the editors of this volume.

2 Interview with Gusti Suriansyah, Pontianak, 14 January 2004.

3 Interview with Raden 'Wimpi' Winata Kusuma, Pontianak, 17 January 2004.

4 Online. Available at: <http://fisip.uns.ac.id/~purwasito/ContentDaerahIstimewaSuk.htm> (accessed 19 October 2005).

5 Interview with Mardan Adijaya Kesuma Ibrahim, Pontianak, 13 January 2004; see also 'Laskar Malu Doktor Marden' (2002); and Adijaya (2003).

6 The sultanate of Ternate also produced a tabloid about this time. *Parada* lasted from March 2002 until March 2003.

7 Interviews with Sayid Ali Amin Bilfaqih, Tanjung Selor, 29 January and 4 February 2004; and Datuk Dissan Maulana Djalaluddin, son of Sultan Muhammad Djalaluddin, Tarakan, 30 January 2004.

8 The sultan of Yogyakarta also received a magnificent title from the Riau provincial government in conjunction with the resurrected royal house of Siak (*Bernas*, 27 June 2003).

9 Important studies from this time onwards that describe contemporary Indonesian politics in terms of traditional culture include Anderson (1972), Day (2002), Geertz (1980), Pemberton (1994), and Resink (1975). A significant precursor was Heine-Geldern (1956).
10 Gutman (1985) has written an excellent overview of the so-called 'new communitarian' challengers to classic Western liberalism. They include Charles Taylor, Alasdair MacIntyre, and Michael Walzer.
11 Three examples are Ismoyo and Sumitro (1998), Margantoro and Nusantara (1999), and Setiadi et al. (2001).
12 On the history of divine kingship in Asia see Claessen and Oosten (1996), Gesick (1983), Kulke (1993), McVey (1995), Milner (1982), and Slamet-Velsink (1995).
13 Examples of this New Order adat language can be found in the 2002 West Sumatra seminar papers by Taufik Thaib (2002), the Golkar leader who organized a royal distinction for the sultan of Yogyakarta.

References

Adijaya, M. (2003) 'Fenomena munculnya kembali primordialisme dan peran istana/kraton di Kalimantan Barat', Jakarta/Surakarta: Bappenas/Forum Komunikasi dan Informasi Keraton Nusantara (FKIKN).

'Almanach de Bruxelles' (1996–2003) Website of dynasties outside Europe. Online. Available: <http://www.almanach.be> (accessed 15 June 2005).

Amal, I. (1992) *Regional and Central Government in Indonesian Politics: West Sumatra and South Sulawesi, 1949–1979*, Yogyakarta: Gadjah Mada University Press.

Andaya, B.W. (1992) 'Political development between the sixteenth and eighteenth centuries', in N. Tarling (ed.) *The Cambridge History of Southeast Asia: from c.1500 to c.1800*, Cambridge: Cambridge University Press.

Andaya, L. (1993) *The World of Maluku: a history of eastern Indonesia in the early modern period*, Honolulu: University of Hawai'i Press.

Anderson, B.R.O.'G. (1972) 'The idea of power in Javanese culture', in C. Holt (ed.) *Culture and Politics in Indonesia*, Ithaca, New York: Cornell University Press.

Aspinall, E. and Fealy, G. (eds) (2003) *Local Power and Politics in Indonesia: decentralisation and democratisation*, Singapore: ISEAS.

Barnes, R.H., Gray, A., and Kingsbury, B. (eds) (1995) *Indigenous Peoples of Asia*, Ann Arbor, Michigan: Association for Asian Studies.

Bendix, R. (1978) *Kings or People: power and the mandate to rule*, Berkeley, California: University of California Press.

Bourchier, D. (1996) 'Lineages of organicist political thought in Indonesia', unpublished thesis, Monash University.

Claessen, H.J.M. and Oosten, J.G. (eds) (1996) *Ideology and the Formation of Early States*, Leiden: Brill.

Davidson, J.S. (2002) 'Violence and politics in West Kalimantan, Indonesia', unpublished thesis, University of Washington.

Day, T. (2002) *Fluid Iron: state formation in Southeast Asia*. Honolulu: University of Hawai'i Press.

Eisenstadt, S. N. (1973) *Traditional Patrimonialism and Modern Neo-patrimonialism*, Beverly Hills, California: Sage Publications.

Farram, S.G. (2003) 'From "Timor Koepang" to "Timor NTT": the political history of West Timor, 1901–1967', unpublished thesis, Northern Territory University.

Fraassen, Ch.F. van (1999) *Maluku: Ternate en de wereld van de vier bergen*, Utrecht: Moluks Historisch Museum/Landelijk Steunpunt Educatie Molukkers.

Galvan, D. (2000) 'Institutional bases of ethnic cooperation in Senegal and Central Java, Indonesia', paper presented at the Annual Meeting of the American Political Science Association, Washington, D.C., September.

Geertz, C. (1980) *Negara: the theatre state in nineteenth century Bali*, Princeton, New Jersey: Princeton University Press.

Gesick, L. (ed.) (1983) *Centers, Symbols and Hierarchies: essays on the classical states of Southeast Asia*, New Haven, Connecticut: Yale University Southeast Asia Studies.

Giddens, A. (1991) *Modernity and Self-identity*, Cambridge: Polity Press.

Gutman, A. (1985) 'Communitarian critics of liberalism', *Philosophy and Public Affairs*, 14: 308–22.

Hadiz, V.R. (2003) 'Decentralisation and democracy in Indonesia: a critique of neo-institutionalist perspectives', Hong Kong: City University of Hong Kong Southeast Asia Research Centre, Working Paper Series 47.

Hägerdal, H. (2003) 'Kerajaan-2 Indonesia: an alphabetic enumeration of the former princely states of Indonesia, from the earliest time to the modern period, with simplified genealogies and order of succession', Vaxjo, Sweden: University of Vaxjo (unpublished manuscript).

Hariyono, L. and Johnston, C. (eds) (2004) *Indonesia: the land of a thousand kings*, Jakarta: Foresight.

Heine-Geldern, R. (1956) *Conceptions of State and Kingship in Southeast Asia*, Ithaca, New York: Cornell University, Department of Asian Studies.

Holtzappel, C., Sanders, M., and Titus, M. (eds) (2002) *Riding a Tiger: dilemmas of integration and decentralization in Indonesia*, Amsterdam: Rozenberg.

Houben, V.J.H. (1994) *Kraton and Kumpeni: Surakarta and Yogyakarta, 1830–1870*, Leiden: KITLV Press.

Huntington, S. (1968) *Political Order in Changing Societies*, New Haven, Connecticut: Yale University Press.

International Crisis Group (ICG) (2003) 'The perils of private security in Indonesia: guards and militias on Bali and Lombok', Jakarta: ICG, 7 November. Online. Available: <http://www.crisisgroup.org/home/index.cfm?id=2959&l=1> (accessed 15 June 2005).

Ismoyo, W. and Sumitro, S.P. (1998) *Sri Sultan Hamengku Buwono X: bersikap bukan karena ambisi*, Yogyakarta: Bigraf.

Kershaw, R. (2001) *Monarchy in South-East Asia: the faces of tradition in transition*, London: Routledge.

Kingsbury, D. and Aveling, H. (eds) (2003) *Autonomy and Disintegration in Indonesia*, London: RoutledgeCurzon.

Klinken, G. van (2002) 'Indonesia's new ethnic elites', in H. Schulte Nordholt and I. Abdullah (eds), *Indonesia: in search of transition*, Yogyakarta: Pustaka Pelajar.

—— (2007) *Small Town Wars: post-authoritarian communal violence in Indonesia*, London: Routledge.

Kulke, H. (1993) *Kings and Cults: state formation and legitimation in India and Southeast Asia (1000–1765)*, New Delhi: Manohar.

Laksono, P.M. (2002) 'We are all one: how custom overcame religious rivalry in Southeast Maluku', *Inside Indonesia*, 70: 7–8.

Larson, G. (1987) *Prelude to Revolution: palaces and politics in Surakarta 1912–42*, Dordrecht: Foris.

'Laskar Malu Doktor Marden' (2002) *Gatra*, Special Edition, 'Satu Indonesia, Seribu Raja', 7 December: 97.

Locher-Scholten, E. (1994) *Sumatraans Sultanaat en Koloniale Staat: de relatie Djambi-Batavia (1830–1907) en het Nederlandse imperialisme*, Leiden: KITLV Press.

Loveard, K. (1999) *Suharto: Indonesia's last sultan*, Singapore: Horizon Books.

Lucas, A.E. (1991) *One Soul One Struggle: region and revolution in Indonesia*, Sydney: Asian Studies Association of Australia in association with Allen and Unwin.

Lugito, H. (2002) 'Tak kesultanan hilang di zaman', *Gatra*, Special Edition, 'Satu Indonesia, Seribu Raja', 7 December: 16–21.

McVey, R. (1995) *Redesigning the Cosmos: belief systems and state power in Indonesia*, Copenhagen: NIAS.

Magenda, B. (1989) 'The surviving aristocracy in Indonesia: politics in three provinces of the outer islands', unpublished thesis, Cornell University.

—— (1991) *East Kalimantan: the decline of a commercial aristocracy*, Ithaca, New York: Cornell University Modern Indonesia Project.

Mahmood, M. (1996) *Citizen and Subject: contemporary Africa and the legacy of late colonialism*, Princeton, New Jersey: Princeton University Press.

Manor, J. (ed.) (1991) *Rethinking Third World Politics*, London: Longman.

Margantoro, Y.B. and Nusantara, A.A. (1999) *Sri Sultan Hamengku Buwono X: meneguhkan tahta untuk rakyat*, Jakarta: Grasindo.

Milner, A.C. (1982) *Kerajaan: Malay political culture on the eve of colonial rule*, Tucson, Arizona: The University of Arizona Press.

Moertopo, A. (1978) *Strategi Kebudayaan*, Jakarta: CSIS.

Murray, L. (2001) 'Indonesia Semen Gresik sale to Cemex not set in concrete', *Dow Jones Newswires*. Online posting. Available e-mail: JoyoNews@aol.com (20 November).

Nugroho, H. (ed.) (2002) *Interpretasi Kritis Keistimewaan Yogyakarta*, Yogyakarta: Center for Critical Social Studies.

Pemberton, J. (1994) *On the Subject of 'Java'*, Ithaca, New York: Cornell University Press.

Peursen, C.A. van (1988) *Strategi Kebudayaan*, Yogyakarta: Kanisius.

Pine, L.G. (1958) *The Twilight of Monarchy*, London: Burke.

Pye, L.W. (1985) *Asian Power and Politics: the cultural dimension of authority*, Cambridge, Massachusetts: Harvard University Press.

Quinn, G. (2003) 'National legitimacy through a regional prism: local pilgrimage and Indonesia's Javanese presidents', paper presented at the Conference on National Integration and Regionalism in Indonesia and Malaysia, University of New South Wales at the Australian Defence Force Academy, Canberra, November.

Reeve, D. (1985) *Golkar of Indonesia: an alternative to the party system*, Oxford: Oxford University Press.

Reid, A. (1979) *The Blood of the People: revolution and the end of traditional rule in northern Sumatra*, Kuala Lumpur: Oxford University Press.

Resink, G.J. (1975) 'From the old Ramayana Order to the New Mahabharata Order', *Bijdragen tot de Taal-, Land- en Volkenkunde* 131: 214–35.

Rozaki, A. and Hariyanto, T. (ed.) (2003) *Membongkar Mitos Keistimewaan Yogyakarta*, Yogyakarta: IRE.

Sakai, M. (ed.) (2002) *Beyond Jakarta: regional autonomy and local societies in Indonesia*, Adelaide: Crawford House.

Schemmel, B. (1995–2003) 'Rulers'. Online. Available: <http://rulers.org> (accessed 15 June 2005).

Scott, J.C. (1998) *Seeing like a State: how certain schemes to improve the human condition have failed*, New Haven, Connecticut: Yale University Press.

Setiadi, B., Hadi, Q., and Tri Handayani, D.S. (2001) *Raja di Alam Republik: keraton Kasunanan Surakarta dan Paku Buwono XII*, Jakarta: Bina Rena Pariwara.

Slamet-Velsink, I.E. (1995) *Emerging Hierarchies: processes of stratification and early state formation in the Indonesian archipelago; prehistory and the ethnographic present*, Leiden: KITLV Press.

Thaib, T. (2002) Online. Available: <http://www.kongres.bupdar.go.id/agenda/temuregional/hasil.htm > (accessed 29 December 2003).

Tick, D. (2004) 'Conferentiepapier'. E-mail (20 March).

Truhart, P. (2003) *Regents of Nations, Part 3: Asia-Pacific and Oceania*, 2nd edn, Munich: Saur.

Turner, M. and Podger, O., with M. Sumardjono and W.K. Tirthayasa (2003) *Decentralisation in Indonesia: redesigning the state*, Canberra: Asia Pacific Press.

Vatikiotis, M. (1993) *Indonesian Politics under Suharto: order, development and pressure for change*, London: Routledge.

'WALHI: Drs. Hasan Basri Durin dan KKN', (1998) Kabar dari PIJAR. Online posting. Available e-mail: kdpnet@ACTIVIST.COM, 26 May.

WAHLI (2001) 'Otonomi and pengelolaan'. Online. Available: <http://www.walhi.or.id/info/otonomi_daerah_dan_pengelolaan.htm> (accessed 12 May).

Warren, J.F. (1981) *The Sulu Zone 1768–1898: the dynamics of external trade, slavery and ethnicity in the transformation of a Southeast Asian maritime state*, Singapore: Singapore University Press.

Weber, M. (1947) *The Theory of Social and Economic Organization*, trans. A.M. Henderson and T. Parsons, New York: Free Press.

Wee, V. (2002) 'Ethno-nationalism in Process: atavism, ethnicity and indigenism in Riau', Hong Kong: City University of Hong Kong Southeast Asia Research Centre, Working Paper Series 22.

Yong Mun Cheong (1982) *H.J. van Mook and Indonesian Independence: a study of his role in Dutch–Indonesian relations, 1945–48*, The Hague: Martinus Nijhoff.

Zakaria, Y.R. (2000) *Abih Tandeh: masyarakat desa di bawah rejim Orde Baru*, Jakarta: Elsam.

8 Adat in Balinese discourse and practice

Locating citizenship and the commonweal[1]

Carol Warren

This chapter reviews contemporary debates in Bali concerning 'adat' (*sima*, *krama*, *dresta* in Balinese) institutions and practices. Particular attention is given to the dualistic model of local governance in the *desa dinas/adat* (official/adat villages), and to new legislation intended to redress the disempowerment of customary institutions under the New Order. The chapter examines the role of adat institutions and frameworks as sites for the production of 'social capital', and their relation to democratizing and globalizing processes. It also considers the shadow side of local empowerment in the exercise of extreme sanctions applied in sometimes intractable 'adat cases' (*kasus adat*) that have intensified in the post-New Order era. The study represents an effort to adapt a 'thick descriptive' ethnographic approach to the multi-sited contexts in which adat is embedded, taking account of NGO, academic, and government engagements with local adat communities (Geertz 1973; Marcus 1998). In attempting to present these issues as much as possible from a range of Balinese perspectives, and to leave their interpretation open to alternative readings, I quote extensively from the local Indonesian-language press and from recorded interviews and informal conversations.

Local governance in the Reform Era: adat/dinas dualism and the desa pakraman

Since the colonial period, local governance in Bali has been characterized by a dualistic framework which divides authority between customary (adat) and official (dinas) structures, and compounds an already complex and locally diverse set of institutions governing ritual, social and economic life at community level. Typically the customary village (*desa*) is divided into several hamlets or wards (*banjar*).[2] Official counterparts for both were established by the Dutch in the *desa dinas* and *banjar dinas*, although with somewhat different degrees of impact on local political process.[3] Over time, and accelerating dramatically under the New Order, this dualism became implicated in the displacement of authority over land and decision-making processes from local ancestrally sanctioned adat institutions to the 'official'

sphere dominated by external interests. Local disempowerment became starkly evident in the last decade of the Suharto regime when a steady stream of unpopular large-scale tourism resort and real estate projects were imposed, often at sites of customary and religious significance.

Two watershed cases in the 1990s marked the shifting relationships between local and national, adat and dinas authority in the narratives of 'displacement' and 'revival' that characterized the period. The landmark case in the displacement narrative was the extremely controversial Bali Nirvana Resort project facing the iconic temple at Tanah Lot, for which construction began in 1993 (for a further discussion, see Warren 1998). In that case the ultimate failure of popular resistance to stop the project – after unprecedented protest demonstrations and an eight-month moratorium – seriously altered Balinese perceptions of their relationship to the Indonesian state. The escalating influx of external capital and labour to the island, the voracious appetite of speculators for land, and the role of the Indonesian security apparatus in facilitating these mega-projects were widely perceived as threatening to Bali's environmental and cultural integrity.

But if Tanah Lot was one watershed marking a decisive shift in the balance of power between local people and powerful external political and economic interests, then the events surrounding a project at Padanggalak only four years later, and still many months before the demise of the Suharto regime, marked a reversal of similar magnitude in the Balinese political imagination. In that case, for the first time since the resort development boom began in the 1990s, a hotel project involving high-profile political interests was halted, not by public demonstrations, impact assessments, or the courts, but by the adat community responsible for the sacred site at the confluence of two rivers and two ocean currents. It was the invocation of the threat of the adat sanction of *kasepékan* (expulsion) against the governor – who happened to come from the village in which the project was sited – that proved decisive in halting the project and turning the case into an island-wide *cause célèbre*.[4]

It is an indication of the extent to which adat institutions in Bali came to be the focus of efforts to redress the excesses of the late New Order – and particularly the displacements wrought by capital-intensive development through the mega-tourism projects of this period – that one of the most important pieces of provincial legislation in the so-called Reform Era concerned the desa adat or desa pakraman. It is perhaps an equally telling indication of the relationship between local adat and state authority, that the 2001 Provincial Law on Desa Pakraman (Perda 3/01) has had little observable impact on the variety of ways Balinese communities practise adat in the local domain, and on the manner in which these practices intersect with their deepest cultural, social, and economic concerns.[5] While Balinese political elites regarded this legislation as an urgent step in the consolidation of political autonomy for the province in the Reform Era, local people express confusion and concern about the implications of its provisions.

The choice of the term desa pakraman, in lieu of desa adat, replaces an Arabic-derived label (adat) with an Indic one (krama), a conscious identity-defining shift for the drafters of the bill. The focus on krama was deemed appropriate to a period of democratic reform, since it emphasizes the collective institutional (krama) basis of local authority.[6] Krama refers to customary practice, order, and law (*tata krama*), and identifies local governance with the decision-making assembly (*krama desa*, *krama banjar*). Accordingly, Perda 3/01 explicitly subordinates local executive authority to collective determination. Leaders (*prajuru*) are to be chosen by the krama desa according to regulations established in their customary codes or *awig-awig* (Perda 3/01, article 7/1–3). They represent their communities in a legal capacity according to the express will of the krama assembly, not on their own authority.[7]

There has evolved a notable difference in conceptions of executive authority between adat and dinas institutions in Bali. The question of the independent authority of adat leaders had been an issue on a number of occasions when they were found to have signed documents related to development projects on behalf of the krama banjar or krama desa without express assembly approval.[8] Dinas officials, on the other hand, were more generally understood to represent a top-down authority structure, and not to be accountable to their constituents in the same direct manner, at least not before the Reform Era.

On this and a number of other points, Perda 3/01 reinforced customary concepts understood to be in keeping with the demands for democracy and accountability that marked the reform movement. At the banjar (hamlet) level at least, a particular kind of direct democracy exists in the compulsory participation of male heads of household in regular meetings (*sangkepan*, *paruman*), where adat matters are discussed. Dinas institutions have always been regarded as free-riding (*menumpang*) on their adat counterparts.[9] In many areas of Bali, banjar adat and dinas leaderships and boundaries were made to coincide from the time the dual structure was established in the colonial period.[10]

According to the regional regulation (art. 1/11), ultimate authority is vested in the krama assembly rather than in adat leaders. The regulation reaffirms that any transfer or change in the status of desa property has to be on the agreement of the assembly, and that communal adat lands (*tanah desa*, *karang ayahan desa*) may not be sold, may not be certified in the names of private individuals, and are to be free of land and building tax (art. 9).[11]

The regulation recognizes the local awig-awig (ancestrally sanctioned oral or written codes), practised and modified by banjar or desa pakraman as charters for applying the fundamental adat principles of *desa mawa cara* and *tri hita karana*. The first of these refers to the variability and adaptability of local adat, and the second to the cosmological and practical balance between religious (*parhyangan*), social (*pawongan*) and environmental or territorial (*palemahan*) spheres necessary to ensure community harmony and wellbeing (art. 1/11).[12]

But on the subject most hotly debated since the fall of the Suharto regime, Perda 3/01 stops short of explicitly abolishing the desa dinas.[13] The disempowering role of the dinas framework under the New Order was regarded as most critical with respect to control over land and local development, as well as the intimately related and sensitive question of in-migration. The abolition of the desa dinas had been called for by some members of the Hindu intellectual movement.[14] In West Sumatra, it has already taken place.[15] The desa dinas is not in fact mentioned at all in the Balinese law, the provisions of which make the desa pakraman appear the sole legal authority at village level: 'The desa pakraman has the authority to make law, both by promulgation and by confirmation of desa regulations; to possess wealth, property and buildings; as well as to accuse or be accused in a court of law . . .' (Perda 3/01, art. 1/6).

Over the last decade, Balinese elites have increasingly focused on the potential of the village-based adat system to control in-migration, which was generally regarded – even before the 2002 Bali bombing – as a serious threat to social stability and cultural identity, not to mention Bali's ability to maintain its unique image in the tourism industry (Picard 1996, 2005). The economic and ethno-demographic transformations which accompanied the large-scale tourism investments of the New Order created a potentially explosive situation. Despite the rhetorical attention given to the cultural and social impacts of tourism, political pressure and private rewards ensured that Balinese decision makers under the New Order did not act to stem the accelerating land alienation or to control the planning process in the interests of the local population or its environment. After public protests against the Tanah Lot development failed to halt this significant shift in development policy, the influx of economic migrants from other islands (*pendatang*) became the object of much of the concern expressed in the media.[16] The location of many of the 'mega' developments of the 1990s on or near sacred sites, and a spate of reported thefts of temple icons, fed popular beliefs that the flood of investments and the accompanying migrants were the latest stage in the conquest and colonization of the island (Aditjondro 1995; Suasta and Connor 1999).

If the precedence of 'national interest' and laws suppressing discussion of ethnic and religious distinction prevented dinas authorities from dealing with inter-island migration directly, adat villages had a somewhat ambiguous claim to do so through their separate authority structures on the grounds of customary territorial rights (*hak ulayat*, *wewengkon*). Some adat villages introduced substantial levies on non-members well before the end of the New Order. Debates over the right to buy and sell land, and over customary requirements tying landholding to ritual labour service responsibilities (*ayahan*), also intensified in this period. Both issues are at the same time extensions of perennial and internally driven renegotiations and reinterpretations of individual and collective rights and responsibilities in the adat domain.[17]

It is widely held that many of Bali's current problems arise from the sidelining of desa adat authority under New Order policies. Surveys by *Suara Bali*, primarily in urban Denpasar, showed that a majority of the sample interviewed believed that desa adat had been disempowered by its dinas counterpart and that administrative functions should be dissolved within or brought under the control of the desa adat in order to put things right (*Suara Bali*, 1 August 1999). The introduction of regional autonomy legislation in 1999 presented the opportunity that the provincial government needed to bring about what it deemed a more appropriate balance between local and national interests.

On paper, Perda 3/01 presents a radical repositioning of the desa adat/pakraman. It appears to recognize an extraordinary degree of autonomy at village level. Yet public opinion among ordinary Balinese has been far from sanguine. Supporters, opponents, and members of the still uncertain public expressed a range of viewpoints in the *Giliran Anda* ('Your Turn') topical column of the *Bali Post*, and in the same newspaper's talk-back radio programme, *Kini Jani*.[18] Some comments stressed the vitality and grassroots foundations of desa adat in contrast to the failure of dinas institutions to respond to the 'aspirations of the people', and decried the role of state institutions in facilitating unpopular developments at Padanggalak, Tanah Lot, Pecatu, Serangan, and elsewhere (*Bali Post*, 15 and 16 July 2003). But others argued that the dinas structure was convenient for basic administrative functions, such as the issuing of National Identity Cards (KTP), and had a place in adjudicating conflicts between communities.[19] Some commentators also felt that the desa dinas offered potential synergies and resources for community development (*Bali Post*, *Giliran Anda* column, 5, 15 and 18 July 2003).

Callers to the *Bali Post*'s talk-back radio programme, reported in the regular *Warung Global Interaktif* (Global Interactive Café) newspaper column, were not so convinced either. Most of the participants in the previous day's discussion on the airwaves saw no serious problems with the division of labour between adat and dinas now that the latter was no longer the tool of a powerful state. Clearly for the large population of non-Balinese in-migrants in urban areas, the elimination of the desa dinas threatened marginalization. One radio caller commented that 'what needs to continue is the desa dinas, because the desa adat still has an ethnic character and is still exclusive' (*Bali Post*, 30 June 2003). The potential for conflict in heterogeneous urban communities if desa pakraman were the sole recognized authority was also raised. Indeed, heated words were exchanged over fees introduced in the Badung and Denpasar regions which adversely affected the large number of Balinese job seekers from other districts, as well as inter-island migrants.

Interviews with villagers in several parts of the island revealed a deeper ambivalence that did not come through the electronic and print media, where a degree of self-censorship with respect to religious and ethnic issues

still prevails. A teacher from a mountain village in Buleleng district complained that the legislation had been promulgated without sufficient input from villagers themselves. He had attended a day-long session to *sosialisasikan* (raise awareness of) the legislation, which most participants had found unsatisfactory.[20] They were especially troubled by the provision under the legislation that all residents should become members of the desa pakraman with respect to social and environmental matters, but not the ritual responsibilities entailed in krama membership, in their understanding inextricable from adat community relationships. A participant from another northern village asked about the implications for burial grounds – 'were Muslims to be taken to the Hindu cemeteries for funerals?' (informal conversation, Tigawasa, 20 October 2003).

The most serious concerns, indeed, about the new regional government law on desa pakraman had to do with this separation of the religious from the social and environmental aspects of citizenship in the adat sphere.[21] Regional elites were attempting to use the legislation to limit the migrant influx and keep minority groups under Balinese political, economic, and cultural control. What troubled ordinary Balinese (at least those who were aware of the details of the legislation) was the incorporation of in-migrants into the desa pakraman as *krama dura*.[22] Only social (*pawongan*) and spatial (*palemahan*) aspects of local adat would apply to these residents, and they would be exempted from the community ritual service obligations (*ayahan*) which are at the heart of adat relationships. The segregation of adat from *agama* (religion) has been part of the modernizing project of reformist Balinese intellectuals (with considerable ambivalence, it has to be said) at least since the struggle to gain official recognition for Balinese Hinduism in the post-revolutionary period (Bakker 1993; Picard 2004, 2005). Such reformist 'simplifications' are also spurred by the awkward position of urbanized elites themselves with respect to the heavy labour service (*ayahan*) commitments to their home communities required by adat practice.

Ayahan obligations are tied inextricably to community life and wellbeing in the understanding of most Balinese. Indeed the definition of the desa pakraman provided in the legislation itself clearly defines the community in terms of its ties to the village temple system.[23] A villager from Beraban (where the controversial Tanah Lot project was located) commented:

> Yesterday in the newspaper there was discussion about combining [the desa] adat and dinas – making a single entity . . . In the press there was a real row two months ago . . . It couldn't be accepted by the people! It's like I said before, adat and dinas we co-ordinate; adat affairs can't be handled by dinas; the reverse also applies. If administrative affairs are consolidated with adat matters . . . external cultural elements will enter the adat role. If in fact we do now end the dualist arrangement, immigrants [*pendatang*] will come as they wish because there is no tie to adat. For example, if an outsider comes and buys land. Sorry for this,

> ya, but supposing that person is Muslim. Adat can't be mixed with Islam. So the concept of dinas is used . . . Certainly in Bali it is adat that is strong. So adat can manage things, but the concept of adat in Bali is like, synergetic [*sinergis*] with religion, they can't be separated.

How is it, I asked the same informant, in regions like Negara where since long ago there has been a great deal of ethnic mixing?[24]

> That's the reason that now with regional autonomy . . . the control of immigration, for example with [requirements concerning] KTP, is a dinas matter. But the adat [of the immigrants], where they live, their behaviour in belonging to the *banjar* – these are matters for adat. This is why in other places there are [separate] Muslim villages . . . Isn't there a concept in Bali of the *tri kahyangan*? *Pura puseh*, *desa*, *pura dalem* [the three-temple system] – that's what holds everything together. If they [the immigrants] are of a different religion, then it is surely clear that with respect to the *tri kahyangan*, they don't have to participate. That's where the loss is. They don't have to carry out all adat responsibilities. Those that are Muslim can't. They are free [*keselé*]. They just watch . . . They can buy *ayahan* . . . The debate is still growing. They [proponents of the new regional regulation] say they want to end the dualism. On Radio Global [the popular response was] 'O don't!' . . . A small matter it seems if adat Bali [is mixed with] other adat. Take the cemetery. That's a small issue actually, the cemetery. But its effects are profound – *sekala niskala* [material and unseen worlds] – don't forget that!
>
> Recorded interview, Beraban (Tabanan), 1 November 2003

The head of one of the new district-level councils (*majelis*) established by the 2001 regulation (see below) eventually called for revision of the legislation on these grounds, referring to the contradiction between the exemption implied in the regional law and the understanding that 'every member of the desa pakraman has responsibilities that are the same toward the village temple system' (*Bali Post*, 25 May 2004).[25]

As notable as the divergence of perspective between popular opinion and regional government policy concerning the fusion of adat and dinas spheres is the lack of any observable effect on the structure of local governance two years after the law's promulgation. No indication of formal changes in the relationship between dinas and adat authorities was reported in any of the dozen villages in which I worked in 2002 and 2003. One villager remarked that the two were now 'better synchronized' (informal discussion, Buleleng, 20 October 2003) not because of the new legislation but because of the decline of central government power.

The lack of impact of Perda 3/01 is perhaps not so remarkable, given the slow pace of legal reform in post-New Order Indonesia, and the great gap between legal principle and implementation in general. Even the sweeping

effort of the New Order government to systematize and control local government across Indonesia through the 1979 Village Government Law was implemented only very slowly and tentatively in Bali in the mid-1980s. With the important exception of the replacement of elected officials with appointed ones in villages redefined as *kelurahan* (a change, notably, which has not been reversed by 'Reform Era' legislation), and some alteration in the structure of local councils, the 1979 law was adapted to the local context and its direct impact on the workings of local institutions in most Balinese communities should not be exaggerated.[26] What is surprising, however, is the lack of clarity concerning the ultimate intent of the regulation on desa pakraman with respect to the prevailing dualism of Balinese governance. As an academic commented in the 'Your Turn' column:

> This Regional Government Regulation makes no mention of the desa dinas, so that exactly what its position is toward the desa dinas, which still exists, becomes completely unclear . . . Does Perda 3/01 not recognize the existence of the desa dinas, or intend to eliminate it? If that should happen, the regulation will face serious difficulties when it comes to practical application, and could cause a situation of serious inequity among the public. It is arrogant to put the desa pakraman to the fore, without being willing to recognize that there is a desa dinas beside it.[27]
>
> Gede Parimartha, *Bali Post*, 2 July 2003

The vagueness of the legislation may indicate some tentativeness on the part of Balinese lawmakers with respect to its compatibility with national law. At the same time, its ambiguities doubtless also reflect ambivalence within Balinese elite circles on the extent of local autonomy that should be encouraged, and doubts about regional government's capacity to cultivate and direct its constituent desa pakraman with the time-honoured state practice of tutelage (*pembinaan*) that applied to the desa dinas under the New Order. The consolidation of adat institutional authority might strengthen regional forces in dealing with competing national interests on issues such as in-migration, taxation, development approvals, and land alienation, but desa adat autonomy at the same time presents a double-edged sword which could undermine provincial and district development policy, not to mention the private, rent-seeking interests of regional authorities.

When villagers on the island of Ceningan rejected the district of Klungkung's plans for a large tourist resort on the island in 2000, they precluded a significant source of official and unofficial income for this relatively poor region. To add insult to injury, Ceningan then began pressing the regional government for a share of the royalties from the valuable birds' nests on the island that had been licensed to outsiders by the district. Along similar lines, the right to participate in or control the management of tourist sites at Tanah Lot (Tabanan), Sanggih (Badung), and Yeh Sanih (Buleleng), or regional markets at Batununggul (Nusa Penida, Klungkung) has been

claimed by these and other local communities formerly excluded from participation in decision making or benefits from developments within their territories (*palemahan*).[28] In some cases these arrangements have been renegotiated or taken over by the direct action of local communities.

Yet, even the discussions regarding the role of desa dinas and desa adat in the *Bali Post* and on talk-back radio – more than two years after the law was passed by the provincial parliament and a year after it theoretically took force – treated the idea of doing away with the adat/dinas dualism in local governance as a matter for open-ended consideration, rather than positive law with necessary structural and political consequences.[29] Almost everyone I spoke to regarded the regulation as inadequate, and many doubted whether it had been formally passed at all.

While the letter of the law has little to do with what is going on at grassroots level in Balinese communities, the law is nevertheless part of a broadly based discursive struggle over the meaning of community, adat, democracy, equality, citizenship, the character of civil society in Reform Era Indonesia, and Bali's place in the new political constellation. Points of contention between local and regional, popular and elite conceptions of the relationship between state authority and local customary law provide revealing insights into the highly charged but also ambivalent conceptions of what constitutes the local 'commonweal' and how to achieve it.[30]

Adat institutions, social capital and the 'dark side' of community empowerment

In assessing the role of adat institutions in the post-New Order period, it is important to frame our considerations in the context of wider aspects of globalization processes, and particularly to examine the relationship of various forms of social and symbolic 'capital' that adat institutions and sensibilities may produce to questions of equity, sustainability and local community empowerment.

It is clear that Balinese increasingly recognize adat as a form of 'capital', an 'asset' which contributes social support, economic wellbeing, aesthetic satisfaction, and, most importantly, spiritual protection.[31] Picard (1996, 2005) has analysed the ways in which political and economic changes resulting from colonization, incorporation into the Indonesian state, and expansion of mass tourism have influenced the construction and commodification of a conscious Balinese ethnic and cultural identity (*kebalian*) out of an intersecting complex of various local ties and focal relationships.[32] But this recognition of an increasingly reflexive construction of identity, especially under the gaze of the global tourist industry, should not be allowed to remove from account the often tacit sense of intrinsic collective good in the lived realities which are only partly articulated, and sometimes misrepresented, by superimposed narratives. The amalgam of values, meanings, feelings, customs, rules, affiliations, and sensitivities that attaches to imported concepts of

'adat' or 'culture' contains meaningful lines of connection and patterns of social relationship that draw upon autochthonous sources. These continue to assert themselves through variously negotiated accommodations with imported frameworks (whether 'Indic', 'Orientalist', or 'modernist') across the Balinese landscape, as Picard notes.

With a vitality perhaps unmatched since the post-revolutionary period, Balinese communities have been pouring their energies into temple ceremonies and community activity in a manner that does not allow an easy distinction between ends and means. Ritual life, intensified in the face of economic crisis, is both an expression of what Balinese conceive as foundational beliefs and values and a means of bringing about the conditions of prosperity.[33] A one-sided reduction of these processes to the instrumental distorts their intrinsically meaningful and satisfying dimensions, and has to be recognized as a critical limit to the utility of the social or symbolic 'capital' frameworks (McLean et al. 2002: 243). Still, the questions raised by these approaches encourage us to look at the ways in which adat institutions articulate with wider economic and political forces, and take us beyond narrow constructions of 'tradition' or 'custom'.

'Social capital', in a sense reasonably analogous to that described by Putnam (1993) in a European context, is both product and premise of village activity in Bali.[34] This is evident in many areas, from desa- and banjar-run business ventures, the profits from which are reinvested in the public sphere, to the ubiquitous *seka* (traditional associations) and *arisan* (rotating credit organizations) that are active in almost every community.[35] Adat institutions have provided the base for entrepreneurial experiments aimed at furthering particular Balinese constructions of 'the common good': community-owned tourist performing troupes in Batubulan and Peliatan (Gianyar), restaurants in Sanur (Denpasar), homestays in Les (Buleleng), and Beraban (Tabanan).[36] A sense of community obligation has also inspired the development of the new *salak* (snakefruit) wine industry in Sibetan (Karangasem).[37] These efforts to capitalize economically on local cultural and environmental assets through customary forms of association and reward have no easy formula for dealing with market forces in a global era of intense competition oriented toward the private sphere. The fact that villagers are prepared to put time and resources into these efforts, which primarily contribute to the collective identity, suggests something about how 'community' or the 'common good' is imagined, and how ideal images of civic action spill across traditional/modern, adat/dinas, and collective/individual distinctions.[38]

In Peliatan (Gianyar), the village of my doctoral research, there has been a striking florescence in the public sphere over the recent period of economic and political upheaval. In 2003, as the economic effects of the Bali bombing drove a long period of economic crisis to its peak, the village mounted an extensive building programme.[39] A new two-storey market, a large open hall (*balé*) for the village temple complex, and an impressive new building to



Figure 8.1 Lembaga Perkreditan Desa (Village Credit Society), Peliatan

house the village credit society were constructed by hiring local unemployed community members.

The village credit society (*Lembaga Perkreditan Desa*, or LPD), which played a major role in stimulating this building programme, has been an impressive success story. Beginning with a provincial government grant of Rp 5 million (about US$600) in 1996, by 2003 its credit in circulation reached Rp 5 billion.[40] This produced a profit for the desa adat of more than Rp 700 million in each of the years 2001–3, in the face of the severe economic downturn resulting from the decline in the tourism sector.[41] The establishment of a network of LPD across Bali was intended to help free people from financial dependence on middlemen in the farming sector and to subsidize the adat sphere, which was regarded as financially disadvantaged by contrast with its state-funded dinas counterpart. The officially sanctioned co-operative (KUD) that had operated in Peliatan within the dinas sphere since the 1950s had never achieved the momentum or public trust that the LPD was able to acquire in six short years.[42]

It is nevertheless important to recognize that dinas institutions played a part in the successful development of the Peliatan LPD. The start-up funding was provided by the provincial bureaucracy; the rules of operation were developed and are monitored by it in conjunction with the village-level *saba desa* (adat) and *Badan Perwakilan Desa* (dinas) councils.[43]

Although anyone can save funds in the LPD, only adat community members are permitted to borrow at rates of 2.2 per cent per month for up to 20 months without collateral for borrowings below Rp 500,000 (US$60). Banks will not normally loan on small accounts or without collateral,

and private sources of small loans would be at twice this rate of interest. LPD officials in Peliatan claim a default rate of less than one per cent (interviews, 13 October 2003), and accounts for 2002 list total reserves held (to cover potential bad debts) of Rp 16.6 million or 0.3 per cent of circulating funds. Twenty per cent of profits (by provincial regulation) go to the desa pakraman and are used to pay honoraria to adat heads – banjar, *subak* (irrigation society) and temple priests – who formerly received only ritual payment for their services.

When a member's repayments are in arrears, the LPD works informally with banjar adat heads to make sure that they are kept up. Public announcement at banjar meetings is one form of sanction at the disposal of the LPD, although its officers claim this is rarely necessary.[44] Although collateral is not required for small loans through the LPD, customary law does normally permit the confiscation (*ngrampag*) and sale of possessions to the value of defaults to banjar or desa adat. Such sanctions could perhaps be extended to para-adat institutions such as the LPD, but no attempt to do so was reported.

This hive of cultural and social activity, and the evident dividends from the 'social capital' accumulated in the adat sphere in Peliatan, have also been paralleled by indications of politically progressive movement in local government within the dinas domain. In 1998, for the first time, the dinas head of the village of Peliatan was elected from outside the local aristocracy in a four-way contest that was also atypical of previous electoral practice, in which informal lobbying usually led to the withdrawal of all but one candidate, who then ran unopposed.[45]

Compulsory participation in ritual, civic, and community works collectively determined by the krama adat has a synergistic relationship with voluntary music associations and rotating credit societies. A spillover between formal and informal, obligatory and voluntary social involvements is a feature of Balinese community life. Banjar Tengah, which is the largest of the very irregular banjar sub-divisions within the large desa adat of Peliatan, also has a reputation as one of the most tight-knit.[46] It has responsibility for a magically powerful *barong* (dragon-like ritual figure) which has traditionally protected the community from pestilence. This collective obligation was taken over from the local palace in the early part of the century by a voluntary seka and later formally transferred to the banjar. At the height of the political turmoil in 1965–6, Banjar Tengah established what later became an internationally famed chant-dance (*Kecak*) performing troupe. Daily practice sessions were originally initiated to keep everyone focused on their common community ties and to prevent killings within the banjar.

Today, Banjar Tengah performs its *Kecak* weekly for tourists, drawing on the adat obligations of every household in the hamlet to carry out communal (*ayahan*) services as performers and organizers of the event, with income going to banjar coffers for ritual and social purposes. Banjar Tengah displays an impressive set of public buildings – a banjar meeting house,

shrine, office, public water facility, and a graceful drum house (*balé kulkul*) for its ritual signal drum. The banjar has also purchased valuable rice land. Its investments, and its extensive ritual obligations, are funded from its tourist performances. A number of villagers who reside in Denpasar, the provincial capital, return on Thursday evenings to participate rather than take advantage of exemptions in return for stipulated payments (*naub*).[47] The density of social interactions and the collective pride in their common banjar adat citizenship is expressed also through a number of other seka within that banjar that have economic, social, and cultural significance.

For Putnam (1993: 167), social capital refers to 'features of social organization such as trust, norms, and networks that can improve the efficiency of society by facilitating coordinated actions'. Putnam's work has attempted to link the development of associational traditions with the emergence of civil society and strong representative institutions striving toward equality and democracy. His classic study of Italian regions in the wake of decentralization policies of the 1970s attempts to demonstrate that economic prosperity, social order, participation in the political process, and other collective goods can be predicted from the historical accumulation of social capital through associative experience that takes horizontal bonds beyond familial ties (Putnam 1993: 175). The adat-based relations that structure local social organization in Bali could arguably be considered as analogous in the non-Western context to many criteria Putnam argues necessary to social capital formation in the northern Italian communes of his study.

Adat institutions and relationships produce solidarities that strengthen the community hand when negotiating with state and private interests. In the contemporary period, they are often able to ensure the preferential employment of community members with outside owners of local developments. At the controversial Tanah Lot resort (Tabanan) and many other hotels and businesses on the island, guarantees of local employment, contributions to community projects, and service provision by local co-operatives offering taxi, massage, boat excursion services and even security arrangements, have been negotiated through adat institutions. Sometimes this involves the incorporation of the hotel as a member of the krama with reciprocal obligations to the village.[48] Not infrequently, managerial-level staff are appointed to deal with community matters.

In what is becoming a novel form of property rights claim, the village of Bongkasa (Gianyar) successfully demanded 'royalties' or 'rent' from the luxury hotel across the Ayung river gorge for the exquisite view of its rice terraces included among the resort's assets for which well-heeled patrons pay up to US$2000 per night. The following account by the hotel manager responsible for community relations indicates the connection between the capacity of the community to exert 'pressure', and its ability to achieve some accommodation with the hotel owners in the new economy that so patently trades on Balinese social and symbolic capital. It also suggests something about the intimate relationship between formal and informal

processes in decision making and about how local 'empowerment' may be realized.

> The local people here think that we as a multi-national company are taking advantage of them . . . On the first day we opened the hotel they started cutting trees, then throwing Molotov cocktails into our villas from across the river. So we called them and said, 'What's wrong?' They said: 'Well, you have our view and you have to rent it from us' – in a nice way. So we maintain a political donation to them and it is distributed fairly among the 65 families. And it's also a good thing because this area is not a green belt and that land is individually owned. And they could just sell it to me or you and you could build a house there. So it is a good thing that we are paying them a monthly amount. [CW: Have you discussed that formally with them?] Yes, in a family way [*secara kekeluargaan*]. So it's in black and white. They are supposed to take care of the environment. No cutting down trees without our consent. No putting up plastic bags.

The manager describes the informal relationship between more assertive elements (usually the youth) within the community and adat institutions:

> [The instigators] are usually from the *pemuda pemudi* [young people's association]. They will say, 'Let's just go burn the bloody hotel. If we don't do it they won't see our colours' . . . 'That's how they got rid of Suharto' . . . 'Let's get rid of him and then decide what we want to do!' And then the elders get involved, and then the banjar gets involved. They say, 'Look, why are you doing this? We can get this by doing this and this and this' . . . And they'll say 'yeah, that's a good idea'. And then we start negotiating the whole thing. We [the hotel] are members of the banjar. We follow the *awig-awig* [local regulations]. We follow everything. That's how we work. And any time they have jobs to do, some *mébat* (ritual food preparation) or whatever, our guy goes. Our chief of security. [CW: You carry out *ayahan* (ritual labour service)?] Ya. We started all of that. We owe *ayahan* to the banjar . . . So the whole system works well in that sense. If we have a problem in the hotel we can go to the banjar and say, 'Someone has just robbed our guest', and they will help. And we feel very safe here because we are located within the banjar. You have to be a pretty brave guy to go through our security as well as theirs. That whole *pecalang* ['adat police'] business has grown tremendously.[49] It's a pain, but! They started because the police and the military were having a lot of differences. There was a grey area just like their uniforms. And now that's why the *pecalang* got involved, and [because of] the Bali Bombing . . . It's useful, in many respects it works very well. [But] before the roads were nice and clear. Now when the ceremonies are on, they block the whole road . . .
>
> B.R., recorded interview, Gianyar, 13 November 2003.[50]

The mutual benefit and exploitation of this arrangement, one imagines, is not unlike relations of complementary opposition between village and state institutions in the pre-colonial and colonial periods. But it is also akin to the 'stand-over' tactics that powerful unions are accused of adopting in their dealings with big business. The growth of the union movement since the late nineteenth century and the effectiveness of collective bargaining in maintaining workers' living standards depended upon solidarities built of intense social interrelationships, common identities, and a considerable amount of internal regulation and boundary maintenance. These were conditions of organization and empowerment that the working class movement of the late twentieth century found increasingly difficult to maintain (Hobsbawm 1994: 301–10).

The polyvalent character of adat, as a meaningful set of social and spiritual relationships that are able to be translated into social and symbolic 'capital' for Balinese communities and individuals within them, may also present a repressive and exclusionary face to those perceived to threaten the harmony between environment, society, and the deities that adat is supposed to ensure.[51] Before considering the 'dark side' of these corporatist orientations in Balinese social structure, it is important to briefly explore the interrelated social, spiritual and economic ties that are variously summed up in Balinese conceptions of adat communities as 'commonweal'. Popular images of the local order, in which solidary and reciprocal relationships are underscored and indeed produced through collective regulation, are expressed in the following letter to the editor in which the writer urges against the risks of involving desa adat in party political activities.[52] While the warning is phrased in language that would warm the hearts of communitarians from Van Vollenhoven's day to the present, the writer at the same time indicates the extent to which his ideal-type Balinese community of solidary and reciprocal relationships depends upon collective regulation.[53]

> In Bali the role of the desa adat is very important in governing its citizens, because it is clear that the desa adat has its own governance system. Everything that is connected with the basic needs of the desa, especially in upholding adat, the religious responsibilities of citizens, along with prohibitions and obligations that are set out, are all determined by the desa membership itself in the form of regulations (whether written or unwritten) that we call *dresta*, *sima*, *awig-awig*, *lokacara*, *catur dresta* and the like . . . The function of the desa adat, fundamentally, is to create an atmosphere conducive to bringing about wellbeing and contentment . . . and to achieving peace for the village. So we continue to work toward realizing the Balinese way [*ajeg Bali*], and we hope for firm co-ordination and guidance of all members' activities along with the resolution of issues based on a spirit of common cause. As we often say, *paras paros sarpanaya*, *salulung sabayantaka*, meaning with conscious, well-intentioned integrity, built on a family spirit, always

> united in good times as well as in misfortune . . . Seeing the existence of the desa adat as a fortification, along with its role in every sector in confronting conditions and situations so complicated in every way these days, the role of elite leaders and respected adat figures in the desa as the vanguard of community protection in the forefront [*garda terdepan*] . . . There [should be] no desa adat leaders or banjar heads who engage with any particular political party, let alone campaign or put up party posters. This clearly deviates from the role of the desa adat as a means of unifying the desa pakraman.
>
> Letter to the editor, *Bali Post*, 18 January 2004

There is a circular, self-validating connection in this writer's understanding between the ritual and reciprocal obligations specified and enforced through collective regulation, and the pursuit of the common good. Irrespective of wide variations in the ways in which these principles are structurally expressed across Bali, local adat citizenship is conceived as a set of ancestrally sanctioned (in both senses) rights and responsibilities in which access to village land, mutual aid and collective service obligations (ayahan) to other villagers, and the community at large, as well as to the spirit world, are inextricably bound together.

The spiritual and material wellbeing of the community and its underlying solidarities are ritually expressed in the burial of symbolic representations of member households in village temple space at periodic temple renewal festivals. This establishes a common ancestral identity out of otherwise disparate and potentially competing lineage or title groups, and is arguably the symbolic foundation of adat community corporatism. The resistance of upper-'caste' or other title groups in some communities to full participation in community ritual or civic activity has been a source of friction and a cause of some of the more intractable kasus adat conflicts, at least since independence. Sporadic references in the literature suggest that formal and informal adat sanctions, in the past, were targeted not least at wealthy or upwardly mobile members of the community, and even at royal houses, as evidenced by the occasional disruption of death ceremonies and the universal ritualized 'play', even in the colonial and pre-colonial periods, with symbols of hierarchy (Warren 1993a, 1993b).

Most of the numerous regulations set out in local customary codes revolve around reciprocal obligations, and stipulate minutely calculated fines for failure to live up to these obligations. Land, as an economic and symbolic resource, is a critical dimension in the constitution of local citizenship, and the most important sphere in which state authority structures impact upon adat institutions. Land and associated ayahan service obligations are also the two most important sources of internal conflict within adat communities in Bali today.

At one end of the spectrum, some of the old mountain communities tie access to agricultural, residential, and ritual space in the community to

banjar or desa adat membership and associated labour service obligations in a tightly corporatist 'village republic' structure. But even in lowland communities traditionally dominated by local courts, where property rights to agricultural land have been effectively privatized and individualized under national law, residential land often has the same communal status. In all Balinese communities, the sacred spaces of village temples, graveyards, and other sites of community ritual have similar significance. Access to these is a matter of reciprocal rights contingent on community membership and performance of ayahan services to the banjar/desa adat.[54] Loss of rights to use the cemetery is the ultimate social sanction in Bali.

While current concerns about the penetration of capital and impacts of inter-island migration certainly reflect conservative and protectionist local reactions to the permeability of community space, the logic of exclusion is ultimately tied to these concepts of reciprocal obligation rather than to ethnic or religious difference *per se*.[55] This observation also helps to make sense of why some of the most fierce and vehement conflicts in Bali take place within Balinese communities, for 'insider'–'outsider' distinctions are ultimately defined by the practical conduct of adat rituals, rights, and obligations which establish the boundaries of local identities and the bonds of mutual aid.

Whatever the extent to which the 'social capital' framework contributes to our understanding of the exceptional amount of social energy Balinese contribute to the local public sphere, the implications of that commitment cannot be understood without also considering the heavily rule-oriented structures, and the often contested interpretations of adat rights and responsibilities, involving powerful ideals of equality and reciprocity, which are negotiated or imposed through adat constructs. We must enter wider conceptual territory with respect to boundaries, identities, citizenship, and related considerations of protectionism and conservation in the construction of local and wider 'commons' or 'commonweal', as we have tentatively begun to reframe this notion for our exploration of communities, environment, and local governance. Evaluating idealized images of the adat community, focused on mutual aid, reciprocity, and community wellbeing, requires us also to look at the sometimes violent shadow side of those same adat institutions and the social capital they produce.

Two reports on local conflicts bring the double-edged aspect of adat 'empowerment' into focus. The first concerns the collective action of the people of Banjar Tegalgundul (Canggu) to prevent the filling in of an estuary for a hotel development project. This was a site of ritual importance for the adat community, and at the same time the project also raised environmental concerns because of the risks of flooding.

> Finally the Yeh Poh estuary that had been filled in by investors PT Bali Unicorn Corporation was reopened . . . using heavy equipment owned by the investors under 'pressure' from local citizens. At least 300 villagers from the communities surrounding the estuary descended on

> the field dressed in adat clothing. Several hundred cubic meters of limestone that had been dumped in the estuary were taken away.
>
> *Bali Post*, 23 August 2003

> For the second time investors were forced by local protesters to carry out clearance of infill they had dumped in the estuary . . . The adat head [*klian adat*] of Tegalgundul, Wayan Gentih, commented that the community had determined absolutely [*harga mati*] that the estuary would not be interfered with – certainly not for hotel construction.
>
> *Bali Post*, 24 September 2003

The second case of mass action involving adat community sanctions concerns a conflict over temple land in which a group of 27 households attempted secession from the desa adat at Yangapi. It is an example of the violent mass actions that have erupted with increasing frequency in the course of village adat disputes over land or citizenship obligations.[56]

> [T]he eruption was caused by the group of 27 households forming a *banjar pekraman* of their own and taking action to separate themselves from *desa adat* Klaci Kaja . . . [the dissenting group had begun to build temples, a graveyard and a desa meeting hall to reinforce their claim to independence]. The Yangapi conflict [originally] erupted at the end of 2000 with a struggle over [1.8 ha] of *laba pura* [temple] land, tied to the Yangapi Death Temple, between *desa adat* Klaci Kaja and the *pemaksan* group which had primary temple support responsibilities, subsequently referred to as the 'group of 27'. This disagreement led to several incidents [including] . . . the destruction of houses and a prohibition against use of the village burial ground by the dissidents. At the time of the prohibition of use of the graveyard, the *bupati* finally intervened and succeeded in bringing about an agreement between the two groups.
>
> *Bali Post*, 22 November 2001

> Yet it appears that the peace was no more than a gesture . . . At heart, the core issue in the dispute over temple land has not yet been resolved . . . Mere attention was not enough. What is desired by the two groups is resolution. But it appears that up to now the regional government, with all its apparatus, has not had the courage to decide whether the Group of 27 can form a desa adat of its own or not. The government seems only able to collect data, give considerations, and suchlike . . .
>
> *Bali Post*, 12 January 2002

There has been an explosive reassertion of adat claims of authority over the local customary domain to which hukum adat or hak ulayat, whether explicitly articulated in these terms or not, are held to apply.[57] The Canggu and Yangapi cases represent two faces of adat militancy in contemporary

Bali. They illustrate the extent to which the adat sphere, and especially adat land, has become the site of intense contestation, expressing itself with a virulence that might equally be interpreted as the reassertion of repressed collective rights and exploited local interests, or as the reactionary throes of a 'traditional' value-system incompatible with a liberal, globalizing, and secular world system.[58] Although different in form, assertions of rights by Balinese adat communities could be analysed in the same ways in which we might attempt to make sense of the Seattle WTO demonstrations or the Chiapas revolt against the collusion of states and corporations under the juggernaut of globalization. At Canggu, villagers were both protecting a 'traditional' sacred site and enforcing 'modern' environmental regulations which state authorities had ignored.

In the Yangapi and numerous other internal kasus adat, on the other hand, extreme sanctions in the assertion of collective authority are justified by the primacy of collective solidarities and the presupposed common good they support. At the same time they are open to criticism for denial of basic human rights and transgression of liberal understandings of justice and equity. The incidence of mass destruction of property as a consequence of local kasus adat has certainly risen in the post-Suharto era. In the worst of the reported cases 30 houses and kiosks were destroyed and one person killed when the homes of local 'dissidents' were torched. In two of the other cases, property damage of Rp 150 and 200 million (US$20,000 and $25,000) was reported (*Bali Post*, 14 September 2002). The issue of human rights arises in similar terms with respect to the draconian treatment of outsiders accused of theft or other serious transgressions of the local order.[59]



Figure 8.2 Home destroyed in an adat conflict

It is a matter of academic debate as to whether *amuk massa* or 'running amok en masse', as these extreme examples of mob violence are sometimes called in the press, actually constitutes adat-sanctioned collective action. Dharmayuda (2001: 109–11) argues that such sanctions are essentially 'anti-adat' because adat law is intended to restore a state of harmony. Beyond fundamental questions of due process and the legitimacy of mass exercise of violence, interpretations of collective action as empowerment or abuse are partly dependent upon how power relativities and the relationship between rights and responsibilities are framed.[60] Also at issue is the extent to which individual liberties and economic interests are to be privileged over collective interests in different conceptions of the 'common good', and at what scale or level of governance different values may be admitted.[61]

Balinese villagers tend to be sceptical about provisions in the regional government regulation on desa pakraman for written awig-awig (Perda 3/01, art. 11) and for a set of councils, *Majelis Desa Pakraman*, at provincial, district and sub-district levels which could provide legal certainty and conciliate adat disputes (art. 14). The written codification and systematization of local adat law was a New Order project that had little impact on local practice. Despite a privileging in high culture of sanctified *lontar* (palm leaf) texts, written charters have not displaced the unwritten ancestral (and popular) sources of authority in Balinese culture.[62] Interestingly, the Majelis are not given superordinate authority over the desa pakraman under Perda 3/01, which provides only for advisory and conciliatory roles (art. 16). These councils could offer a useful non-hierarchical framework for negotiating 'critical localism' and 'dialogic civility' in the local sphere. NGOs and the media are other sites where critical reflexive dialogue is taking place without any direct power to override local customary authority.

Many of the published letters in the *Giliran Anda* column critically address the need and capacity of local adat to adapt inherited practice to current circumstance and to avoid abuses that conflict with religious and human rights principles. Predictably, the 2002 Kuta bombing exacerbated introspective tendencies among Balinese, and also their ambivalence on these issues. Calls to reinforce customary community authority in order to confront the challenges of globalization are heard everywhere, but these are also usually qualified and suggest a remarkable degree of self-reflection.[63] In Kuta, the same adat community implicated in the sweep against pedlars (*kaki lima*) in 1999 was credited with preventing inter-ethnic conflict during the tense atmosphere following the bombing. As with local protectionism and creative endeavour, exclusion and conservation, these experiences suggest that no simple conservative or progressive reading can be made of the possibilities for these customary frameworks under globalizing pressures. One urban political activist envisioned a plural system in which each village determines the character of residents' ties to adat: 'It depends upon the area. Bali is very plural. It depends upon their *awig-awig*, ultimately' (interview, Denpasar, 5 November 2003).

Even during the New Order period the intervention of state authorities had limited effect in attempting to resolve local conflicts, and not infrequently exacerbated them. Given that state institutions have lost most of their moral authority in Indonesia, the capacity of supra-local spheres of governance for promoting a sense of common interest and identity has been severely compromised.[64] Yet local, regional, state, and global regimes must negotiate constructive bases of engagement to provide the mutual synergies and the check and balance frameworks that democratic reform and social revitalization demand. In the Balinese context, the question is whether provincial and national law is able to play a legitimate role in curbing the abuses of local authority (and vice versa), and in providing the necessary context for the progressive 'critical localism' of which Dirlik (1994) speaks, or the participatory and dialogic 'civility' proposed by Kingwell (1995).

Concluding comment

It has not been possible in this short space to do justice to the complexities of 'adat revivalism' in contemporary Bali. The material presented here is assembled to give some indication of the range of Balinese voices and positions in longstanding debates within Bali concerning adat institutions and Bali's relationship to the national and global cultural economy. At the very least, these debates indicate that the meanings and relationships gathered up under the rubric of adat have great importance for Balinese; that they have powerful autochthonous roots; and that they can only partly be understood in terms of reflexive identity construction or imposed institutions.

At the same time, and acknowledging the need to resist an equal potential for reducing Balinese understandings of adat to instrumental readings, there is considerable value in locating analysis of adat discourse and practice in terms of wider contemporary globalizing forces (as Balinese themselves sometimes do), and in terms of the resurgence of the local as a site for contestation and engagement. Debates within Bali concerning the desa pakraman and kasus adat are revealing indications of how Balinese understandings of the local 'commonweal' – of citizenship and exclusion, reciprocal rights and responsibilities, collective action, common interest and identity – are being framed in the post-New Order period.

Notes

1 The research upon which this chapter is based forms part of an ongoing Australian Research Council collaborative project based in the Asia Research Centre at Murdoch University. Other researchers involved in the project are Greg Acciaioli, Chris Ballard, Anton Lucas, John McCarthy, Jim Schiller, and Leontine Visser. I also wish to thank Agung Suryawan, Wayan Geriya, Madé Denik, Wayan Windia, Ngurah Karyadi, Ida Ayu Astiti, Nyoman Sirtha, and the late Ngurah Bagus for their contributions to the information presented in this study, although I remain responsible for the arguments and conclusions drawn.

2 In some old Balinese villages, however, the desa and banjar coincide and perform different functions. In many villages, 'core' village members make up the *krama desa*, while all heads of household are formal members of the *krama banjar*.
3 The boundaries of banjar adat were less directly affected by government intervention and are more likely to coincide with their dinas counterparts than is the case for the desa dinas and adat. See note 10 for further discussion.
4 The local Indonesian-language newspapers, the *Bali Post* and *Nusa*, provided extensive headline coverage of this watershed case during the months of October and November 1997. However the very locality of adat, within the realm of which a certain degree of cultural introversion and self-confidence prevailed, had its own disabling effects on efforts to resist the designs of powerful external state and private actors. The fact that adat sanctions succeeded at Padanggalak only because the governor came from the desa adat in which the project was located points to the limits of forms of power that are so locally focused.
5 The full Indonesian title of Perda 3/01 is *Peraturan Daerah Propinsi Bali No. 3 Tahun 2001 tentang Desa Pakraman*. This legislation defines the desa pakraman as 'a unit of the customary law community in the Province of Bali that possesses a coherent tradition and formally organizes the social life of the Hindu community from one generation to the next through responsibility for the village temple system, and which possesses its own recognized territory and property as well as the right to manage its own affairs' (art. 1/4). The law was enacted pursuant to the introduction of regional autonomy legislation in 1999 following the collapse of Suharto's New Order government the previous year.
6 For a detailed discussion of the corporatist seka principles of organic unity underlying local organization, and the conception of equivalence of rights and responsibilities among members, see Warren (1993a: 7–10).
7 'Office-bearers of the desa pakraman have the duty . . . to represent the Desa Pakraman in the conduct of legal affairs whether in or out of court on the agreement of the desa assembly' (Perda 3/01, art. 8D).
8 This point was made forcefully in a letter to the editor of the *Bali Post* (6 October 1998) calling for the resignation of an adat village head (*bendesa*) in the context of disputes over the controversial tourism developments at Padanggalak: '[I]t must be remembered that the *bendesa adat* is an adat leader who represents the adat membership, not a decision maker himself'. The legitimacy of the agreements signed by the bendesa adat of Kesiman without formal krama approval – in the first case involving the location of a hotel on adat land at Padanggalak in 1997, and a second approving an aerosport facility in 1998 (this time on private land within the desa adat's territory, *wewengkon*) – was a pivotal issue in the controversies surrounding both projects. These projects were eventually cancelled despite prior issuance of official permits for which the signatures of adat leaders had been obtained.
9 This was true of both physical and organizational infrastructure. At banjar level, monthly adat meetings in the *balé banjar* meeting hall were the venue for dissemination of information by the banjar dinas head (*klian dinas*), who in some banjar was also adat head (*klian adat*). Banjar were the organizational basis of family planning, local security (*siskamling* or *ronda*), and all community development or social welfare programmes introduced by the New Order government.
10 This was rarely the case at desa level where the adat leader (*bendesa*) and dinas head (*kepala desa* or *lurah*) were almost everywhere separated. Banjar adat

boundaries and memberships (in which an exceptional degree of irregularity in size and dispersion prevails) are much more likely to coincide with their dinas counterparts than at desa level. State policies had more direct impact on the desa, although in degrees that varied considerably according to the internal variations in local adat structure. In the mountain community of Tigawasa (Buleleng), the desa dinas and adat coincide, with the adat village insisting that whoever should be elected kepala desa is also to become one of the five klian desa adat, an unusual situation that prevails to the present. (This village, interestingly, also has a strict rule in its old awig-awig that anyone moving into the village must give up any 'caste' title as a mark of status equality with the rest of the community.) In many parts of Bali, it is common at banjar level to find the same person chosen as klian adat and klian dinas, even after the latter (since 1979 to be called *kepala dusun*) became theoretically an appointed position with the introduction of the Village Government Law (no. 5/1979). See Chapter 9 in Warren (1993a) for a discussion of the implications and limits of this legislation, which attempted to homogenize and bureaucratize local government across Indonesia.

11 The legality of this use of regional autonomy to determine the application of national taxation law was questioned by one villager I interviewed. But according to an academic from the Law Faculty at Udayana University, Marhaendra Wijaatmaja, the new law on desa pakraman is consistent with both regional autonomy laws and the national constitution, which in his view carries official Indonesian authority only to sub-district level, below which autochthonous local institutions are responsible for governance. Another legal scholar and Head of the Faculty of Law at Udayana University, Professor Dewa Gede Atmadja, proposed that, if the dissolution of the desa adat conflicted with national law, it was the national legislation that would have to be revised! (in *Suara Bali*, 1 August 1999).

12 Another common aphorism with similar reference to the variability and adaptability of *adat* is *desa kala patra* – 'according to village, time, and circumstance'.

13 Arguably it would be legally unnecessary to do so, since the national Law on Regional Government (no. 22/1999, art. 131) abrogates the 1979 Village Government Law, which in turn had replaced previous regulations ordering village level affairs. In this case, in the opinion of Indonesian law specialist Daniel Fitzpatrick (personal communication, 15 June 2004), in so far as the dualistic model continues to operate, the desa dinas now becomes the informal partner in a theoretical reversal of the New Order pattern. It remains to be seen, however, whether the Balinese regional regulation will be found compatible with the central government guidelines for implementation of the 1999 regional autonomy legislation. Simarmata and Masiun (2002: 2) report that some three thousand regional government regulations are under review by the Ministry of Internal Affairs.

14 The Forum Pemerhati Hindu Dharma Indonesia was founded as a response to the growing influence of the Association of Muslim Intellectuals (ICMI) on state policy, and to disaffection with some of the policies of the officially recognized Hindu organization, PHDI, in the late New Order period. Members of the group were associated with the publication of a monthly newspaper called *Suara Bali*, in the first issue of which (August 1999) a call was made for the desa dinas to be abolished.

15 For a discussion of adat revival in West Sumatra, where dinas structures are being replaced by the restoration of the nagari as the basis of local

governance, see Biezeveld in this volume (Chapter 9) and F. and K. von Benda-Beckmann (2001).

16 These migrants are often referred to by the particular occupational niches they fill: *kaki lima* (food pedlars operating from manually pushed food carts) and *pemulung* (scrap collectors). Local anxieties are evident in signs posted along village side-roads everywhere on the island prohibiting entry to these poorest of the in-migrants: *Pemulung Dilarang Masuk*. The provincial head of trade is quoted as warning that overdevelopment of the tourist industry without regulation would only invite more migrants (*Bali Post*, 12 May 2004).

17 See, for example, the account of krama debates in the village of Batuan in the 1980s concerning collective authority over the disposition of residential land recorded by Hildred Geertz (quoted in Warren 1993a: 294–5). These debates were prompted by the process of formalization and written codification of the awig-awig as part of a government program in the early 1980s. Similar discussions took place in 2000 and 2001 in Sibetan, where for cultural and environmental reasons one banjar introduced a rule that no land within its boundaries (including privately owned and certified *hak milik* land) could be purchased unless the new owner agreed to reside in the village and carry out ayahan responsibilities (interviews, Sibetan, 23 November 2001, 31 August 2002, 10 November 2003; for an account of these debates see Warren 2005).

18 The talk-back radio programme uses both the Indonesian (*kini*) and low Balinese (*jani*) words for 'now' as its title. Importantly also, the preceding day's discussion is summarized in the *Warung Global Interaktif* column in the newspaper. The *Bali Post* now owns both a radio and a television station in Bali. Other popular features inviting public comment include lively 'Letters to the Editor' and the subject-focused *Giliran Anda* column. Alongside these opportunities for direct public comment, other efforts to reflect and appeal to critical public opinion include weekly fictionalized 'Discussions from the *Balé Banjar*', daily satirical quips in the Bang Pojok comment corner, and cartoon strips with a decidedly populist political positioning of the main characters.

19 Examples of inter-village conflicts, in both cases involving land disputes, feature in the *Bali Post*, 6 April 1998 and 27 June 2003.

20 *Sosialisasikan* theoretically refers to a consultation process. But in practice it continues to convey New Order inclinations to provide 'tutelage' (*pembinaan*) to the 'floating masses', and is better described as a process of propagandizing policies that have already been determined.

21 The law reads (art. 3/6): 'Those members of the desa/banjar pakraman that are not of the Hindu religion are only bound in social and spatial terms within the desa/banjar pakraman respectively.'

22 *Dura* means 'foreign' or 'visiting'.

23 See note 5.

24 Other evidence indicates that, in such communities, identity has been bound to 'religion' only to the extent that outsiders wishing to reside in the space of the desa adat were held to abide by its customs and traditions. Where such conditions were met, or where the 'outsiders' lived in their own villages with their own customs, Muslim Balinese were perceived as being fully Balinese (Barth 1993).

25 This same commentator indicates that the obligations involved do not include praying at temple ceremonies, suggesting that it is not in fact religious affiliation

which is at issue here, but rather the reciprocal contributions in labour and kind that formally define community citizenship.

26 This is not to imply that the impact of dualism in local governance, dating back to the colonial period, was insignificant and did not intensify under the Suharto regime. A *Bali Post* article by M. Suartina (15 February 2001) undoubtedly overstates the case in arguing that despite changes in formal village structure, 'desa communities hardly felt the effects of the different policies put out [by the New Order government]'. But the general point regarding the vitality of local institutions is a view generally held by Balinese: 'The administrative desa dinas established by the government was no more than a rubber stamp for power, while the local institution that captured the really significant dynamics of everyday life was the organization that [the people] built themselves, the desa adat/pakraman.'

27 The author is a staff member of the literature faculty at Udayana University. His is the only comment I have found on this profound but unstated implication of the legislation. He goes on to indicate that his opposition to abolishing the desa dinas is based on nationalism.

28 Callers to *Jani Kini* debated the appropriateness of threats by desa adat Batununggul to take over markets established by the provincial government but situated on desa land. Their comments illustrated the competing claims of different communities and levels of governance to serve the 'commonweal' within their respective domains, and the place of rhetorics of democracy, equity and appropriate forms of conflict resolution in the process of contesting entitlements. One caller found that the income from the markets 'should be used fully for the common needs throughout the district, not only those of Batununggul alone; if that desa wants more funds, it should be asking for a percentage of the proceeds'. Several urged caution and stressed the need to resolve the problem peacefully through discussion (*Bali Post*, 1 April 2003).

29 The invitation to the public to contribute to the 'Your Turn' column in the *Bali Post* presents the matter as follows: 'Unfortunately up to now Bali has two types of village government, desa adat and desa dinas, the operations of which still cannot be fused' (*Bali Post*, 4 July 2003).

30 By 'commonweal' we refer to an organizational sphere within which collective goods and common interest can be pursued. See Warren and McCarthy (2002) for an elaboration of the issues surrounding the concept.

31 For an explicit use of this language in the local press see below, note 56.

32 It is telling perhaps that in the last two years the language has shifted from *kebalian* (Balineseness) to *ajeg Bali*, where *ajeg* (affirming, upright) captures a much harder-edged notion of reinforcing Balinese identity.

33 Surprisingly few Balinese I spoke with in 2003 were prepared to question the expense of ceremonial and temple renovation activity that was taking place all over the island. The content of offerings may have been scaled down, but their ubiquity has not. A part-time teacher and farmer pointed with pride to the Rp 150 million in temple renovations recently completed in his community, saying that anything that increased the sense of solidarity was a cause of pride and satisfaction (interview, Tigawasa, 25 October 2003). A self-employed taxi driver, on the other hand, bemoaned his inability to persuade fellow villagers at a recent banjar meeting to delay conduct of an expensive temple ceremony until the economy had improved (interview, Pejeng, 6 October 2003). When I asked whether

it was mostly well-to-do villagers taking this position, he said that, on the contrary, the strongest proponents were those of modest circumstance who insisted that the rituals should not be postponed. Others stressed that the scale and timing of major community works or ritual events were a collective decision, and that costs were always spread over a period that made it possible for villagers to pay. This was also an occasion to solicit donations from those better off in the community. Many indicated that this ritual florescence in a time of crisis was a reflection of a 'real' and distinctive Balinese view of the world (informal conversations, Peliatan, 11 October and 14 November 2003; Bangkiang Sidem, 7 October 2003).

34 A great deal of work could be done on the relevance and limits of Putnam's thesis on 'social capital' for non-Western societies, particularly in challenging the appropriateness of importing the concept of 'capital' to social and symbolic domains (compare Bourdieu 1977). These concepts do risk misleading us into narrow instrumentalist readings of processes and relationships which are not reducible in this way and deserve to be addressed in a more qualified manner than I have accomplished here.

35 A Balinese village might have a half dozen of these associations. Each banjar in a desa adat may have a loan scheme, and within any banjar there will often be smaller voluntary associations of members who pool funds for building, ritual, or general purposes. In Banjar Tengah (one of eight banjar adat in Peliatan) two *arisan* are currently operating. One is a *seka suka duka* established primarily to pool resources for ritual purposes. It has 75 members who contribute 2 kilos of rice, two eggs, and two coconuts in rotation for members' ceremonial activities. It has been running for more than five years and operates as a savings and loan association as well. It has no formal relationship to wider adat institutions in the sense that it does not report to them or depend upon formal adat sanctions to insure repayments. But villagers say it is 'sheltered' by them (interview, Peliatan, 24 October 2003). Most villages have one or more music seka for temple ceremonies. Many of these now perform for tourist audiences as well. Music associations and rotating credit societies reflect the voluntaristic aspect of the high levels of civic engagement underwritten by this corporatist seka ethos, and the ritual premises of local well-being.

36 For background on Sanur's village-owned industries, which date back to the 1970s and include a bank, restaurants, and laundry and motor repair businesses, see Warren (1993a: 189–208). Desa Beraban's entrepreneurial efforts are portrayed by one contributor to the *Bali Post* 'Your Turn' column, who also links them explicitly with democratization and civil society, as making Beraban 'an example of a village that is putting local autonomy into practice through a system of bottom-up planning using concepts of measured, consolidated and balanced development . . . The people of Beraban desire very much to build community-based tourism that is truly based on the people's interest. They have pursued this goal for more than seven years . . . by working hard, step by step, relying on their own self-help efforts. In support of tourism, Beraban now has 22 homestay rooms together with KSM (community groups) for cooking and performances . . . The people of Beraban practise desa autonomy democratically, by making policies based on consensus and accepting external involvements selectively and through forming a systematic cooperative network. Though far from perfect, the village of Beraban as a tourist destination can become a model

for development in other villages through these concepts of measured, consolidated and balanced [action] so that what is called civil society can be achieved' (*Bali Post*, 10 July 2003).

37 One of the two 'inventors' of the technique for making this unusual fruit wine, which has some prospect of international distribution, was approached by large alcohol producers interested in buying the process but did not 'dare' divulge details because the industry belongs to the banjar (interview, Dukuh Sibetan, 21 August 2002). The great deal of energy he and other villagers put into this interesting experiment in downstream processing of their most important primary product goes well beyond the value of the small honoraria provided to participants in the regional government- and NGO-sponsored project. Activities extend to an inter-village product trading scheme in collaboration with an urban-based NGO, a community garden for conservation of local varieties of salak fruit, the revival of local performing arts, and experiments with village-based eco-tourism.

38 Cross-cultural translation problems similar to that discussed above for 'social capital' arise in using the concepts of 'civic action' and 'civil society'. Whereas academic discussion of the civic and civil carry connotations of voluntaristic, individual and usually secular rights, local customary conceptions of citizenship in Bali tend to be corporatist and tightly connected with ancestral obligation – as expressed in popular responses to the desa pakraman law. As a minority cultural group within Indonesia, Balinese are of course committed to a secular state. The character of their concept of citizenship therefore varies at different levels or scales of 'commonweal'. Gellner (1994) posits the 'conditions of liberty' as arising from the kinds of pragmatic compromise that are very much part of the everyday negotiations of principle and practice which underlie the expressed variability of Balinese adat according to 'place, time and circumstance'.

39 The downturn in tourism following 11 September 2001 had already had a severe impact on this sector, to that point responsible for 40–50 per cent of Bali's GDP (but only 20–5 per cent of direct employment). After the Kuta bombing in 2002, visitor numbers to the island dropped below half their normal rates, with recovery restrained by the SARS outbreak in the Asian region the following year. In all 29 per cent of the workforce were estimated to have lost their jobs by April 2003, and three-quarters of those working directly in the tourism sector to have experienced reduced working hours and incomes (UNDP, USAID, and World Bank 2003: 1–7).

40 The LPD in the neighbouring desa adat Mas is reported as having assets of Rp 11 billion, or US$1.3 million (letter to the editor, *Bali Post*, 16 April 2006). Total figures for Bali as of December 2002 show Rp 636 billion in loans circulating through the LPD system, compared to Rp 329 billion through the public Bank Rakyat Indonesia and 485 billion through the private Bank Perkreditan Rakyat (UNDP, USAID, and World Bank 2003: 20–1).

41 In the years 2001, 2002, and 2003, the provincial government contributed respectively Rp 10, 20 and 25 million to each of the 1404 desa adat in Bali. This was meant to counterbalance the budgets provided to desa dinas. Beyond the small salaries of village heads and other officials, government grants for support of desa dinas development programmes were as little as Rp 5 million, and in some years during the crisis of the late 1990s disappeared completely. Meanwhile, desa adat which managed to establish their own enterprises, or recover control

of local resources from state or private interests, could now raise much more substantial incomes. In Desa Beraban, which has taken over from regional government the management of visitors wishing to see the dramatic view of the Tanah Lot temple at sunset, this source of income adds approximately Rp 20 million per month to the village budget (village council member, interview, Tabanan, 1 November 2003).

42 Commenting on why the LPD had been such a resounding success when previous efforts had failed, a former banjar leader involved in the management of the earlier co-operative remarked: 'The leaders have to be well-trained and honest, and have the trust and scrutiny of the members. It's hard to say which comes first. If the co-operative is large and members don't take the trouble to question and monitor, the leaders get lax. Or corrupt behaviour on the part of the administrators causes members to lose trust and opt out. The co-operatives were too open-ended. At the other end of the spectrum, the *seka arisan* [small rotating credit and ritual support associations] succeed because they are extremely internal. You always meet the other members wherever you go. So all members definitely try to keep up their obligations to save face' (informal conversation, Peliatan, 24 October 2003). In large villages like Peliatan where the desa adat is made up of many component banjar adat, it is at banjar level that the commitment to the social and cultural capital of the community is most intensely felt.

43 The effectiveness of monitoring and the relative weight of local and regional level supervision remains to be studied. Certainly not all LPD have been as successful as the Peliatan example to date. The UNDP study, cited above, gives a figure of 6.3 per cent doubtful debts among LPD, compared to 2.6 per cent for Bank Rakyat Indonesia and 11.5 per cent for Bank Perkreditan Rakyat as of the end of 2002 (UNDP, USAID, and World Bank 2003: 20–1). But an article in the *Bali Post* (20 May 2004) indicates that nine of the 255 LPD (for 266 desa adat) in the Gianyar district, which the UNDP study lists as reporting no doubtful debts whatsoever at the end of 2002, were in danger of bankruptcy. In the one case detailed in the article, in the village of Melinggih Kaja, Payangan, an estimated Rp 350 million out of Rp 500 million were reported to be unaccounted for. Although the problem was said to have dated back a year, the press report implies that investigation by district authorities began only with a request for an audit by desa adat and LPD officers.

44 One former adat leader questioned about this, however, doubted whether public disclosure of private information was legitimate under Indonesian banking law.

45 Loss of an election to the blank box would of course be a great humiliation, so extensive testing of public opinion through formal and informal channels at banjar meetings and in coffee shops has always been part of the process. Although the *kotak kosong* (blank box) never won an election in Peliatan, this has occurred in other parts of Bali. For an account of a notorious instance in the village of Tianyar (Buleleng), see Wilkinson (1991).

46 One indication that 'state simplifications' historically had limited impact at the banjar level of governance is the irregularity of size, and sometimes complete geographical dispersion, of banjar adat memberships and institutional relationships. In so far as dinas institutions were superimposed, they were usually made to conform to these apparently awkward local morphologies.

47 It is indicative of the tension between social solidarity and pragmatic fairness to individual member interests in Balinese deliberations over the protection of the community's 'social capital' that a periodic agenda item at banjar meetings concerns whether fines for non-attendance and payments for naub exemption should be raised as more villagers are living away from their home banjar because of work. Those favouring low token fines argue that this is to avoid any implication that one's social responsibilities can be 'bought'. Some villages refuse the possibility of naub exemptions altogether.

48 Local courts, at least since the colonial period, were in some places incorporated into the community ritual regime in this way. They made reciprocal contributions (*patus*) at death ceremonies and in turn drew on banjar labour for their own ceremonial enactments.

49 The emergence of the pecalang, as agents of local adat law enforcement, has become a controversial issue in the post-New Order period. Dressed in black and white checked (*poleng*) cloth, they are often seen holding back traffic and standing guard on ceremonial occasions or other adat-sanctioned events. They have taken over from Hansip, Satgas, and similar state-sponsored local security groups, wherever communities have determined to organize local law and order in this way. In one reported case pecalang were implicated in the mob killing of two youths from Lombok accused of theft. But the pecalang phenomenon is not responsible for this traditional way of dealing with theft by outsiders; nor were pecalang the main actors in most of the examples of violence and community 'justice' described below. Still, the role inevitably attracts the same young 'hotheads' or local toughs (*preman*) who will take any opportunity to assert their prowess. When I asked the hotel manager whether or not the pecalang he dealt with were controlled by the banjar, he commented, 'Both – some days they are doing banjar business, but some days they are just there as toughs'. The regulation on desa pakraman gives state sanction to the pecalang which it defines as 'traditional security forces in the Balinese community that have the authority to protect peace and order in the area, whether of the banjar pakraman or of the desa pakraman'; pecalang are appointed and removed by the desa pakraman assembly (Perda 3/01, arts 1/17 and 17/3).

50 The manager was Singaporean-born and married to a Balinese woman from a nearby community. This interview was conducted in English but the interviewee peppered the conversation with Indonesian and Balinese words.

51 In the case of gender differences, women's civic rights are subsumed under local corporatist identities in ways that do not even allow questions of equity to be raised. The regional government law on desa pakraman does not mention gender issues, among which the lack of women's direct participation in routine decision making at krama meetings and the unequal inheritance and child custody rights should be serious reform concerns. The professor of adat law at Udayana University described her frustration at the failure of her colleagues to address this issue, but at the same time did not take up the opportunity to provide female representation in the Balinese delegation to the Indonesian Indigenous Peoples Alliance (AMAN), which requires a male and female representative from its constituent groups (interview, 3 November 2003).

52 There is a deep concern about politicization of communities fed by New Order policy on the 'floating mass', and also by the experience of the political violence of 1965–6, which split some communities and devastated others. On the other

hand, the inward focus of adat practices and sensibilities often has the effect of inhibiting the degree of engagement with the public sphere beyond the 'local'. Putzel (1997: 947) puts the case for the importance of political debate at community level and the positive role of state interventions in stimulating wider civic participation. These concerns also resonate with Pye's exploration (1999: 779–81) of the complexity and indeterminacy of the mix between civility, social capital, and civil society.

53 Indeed the failure to recognize the importance of community self-regulation in preventing Hardin's 'tragedy of the commons' is a key criticism from revisionist approaches to common property debates (see McCay 2001; McCay and Jentoft 1998; Uphoff and Langholz 1998).

54 See the chapter on 'Earth, Death and Citizenship' in Warren 1993a.

55 A clause (no. 7) in the written awig-awig for the desa adat of Aan (Klungkung) indicates the longstanding relationship between residence rights and civic-ritual responsibilities associated with krama membership: 'If a married couple from outside the village lives in the village longer than a month, they must enter the village council [*krama*]. a) If they don't want to join the village council they must be expelled from the village. b) And the man [member] who has sheltered them and so is responsible for their entering the village council is fined 4900 kepeng because he is just the same as the man who won't fit in' ('Awig-awig Wikrama Desa Adat Aan', in Geertz and Geertz 1975: 184–96).

56 A *Bali Post* article (14 September 2002) covers a dozen contemporary kasus adat ('adat cases') over the period 2000–2. It introduces the issue as follows: 'Adat is founded upon a bounded community that is self-regulating. Adat law possesses its own authority [*kekuatan*]. From one perspective, adat has long become an asset and commodity upon which cultural tourism is built. But on the other side of the coin, adat also harbours sources of conflict that can explode with a negative effect on the pursuit of a just and prosperous society . . . The string of 'kasus *adat*' that have attracted public attention warrants serious reflection so that these do not repeat themselves. Is it necessary to sacrifice our fellow human beings to protect our ancestral adat [*adat dresta*]?' (*Bali Post*, 14 September 2002). In May 1996, well before the end of the New Order, the situation had become serious enough for the newspaper to devote a special column to the kasus adat issue.

57 In the Canggu case, the estuary which is the meeting point of four rivers was not formally claimed as *tanah adat* (adat land) by local adat communities, although there is no reason to assume that they could not have legitimately done so on grounds of customary obligation to carry out rituals at the site. For them it was not a formal label that gave them the responsibility for the site but their longstanding ritual relationships to it, for which they were prepared to resist *harga mati*, at any price. 'The role of the desa adat here in Banjar Tegalgundul', explained adat head (*klian adat*) Wayan Gentih, 'is only that of a custodian with responsibility for protection of the estuary because it is directly connected with the religious and adat life here. We were never given "rights", but as a community we feel an obligation to protect and preserve it.' His added remarks refer to the 'externalities' of the adat/dinas relationship and hint at the sense of disjuncture in the reciprocal dimension of responsibility tied to benefits appropriated by state authority: 'As people say, we in adat only get the work, but those that enjoy the money and benefit of it are the government' (recorded interview by Madé Denik and Atiek Ambarwati, Canggu, 6 February 2004).

58 Indeed when the chief of police for the province of Bali was transferred, the *Bali Post* headline (7 May 2003) classed *amuk massa* (mob violence) alongside drug cases as the most serious challenge he had faced in his 17-month appointment.

59 Theft by 'outsiders', even from the next village, has traditionally been dealt with throughout Indonesia by mass beatings usually resulting in death. In Peliatan such public killings occurred in 1963 and nearly again in 1995. Balinese awig-awig require members to come out with a heavy stick or weapon when the *kulkul* is struck with a warning signal. Such incidents have increased in frequency over the last decade, as growing numbers of migrants from other parts of the country came to the island, initially to work on the construction of the mega projects, then staying on in the informal sector as pemulung or pedagang kaki lima. A violent incident occurred at Kuta in 1999 when an organized group of villagers dressed in adat clothing rounded up pedlars' carts in the middle of the night and set fire to them on the beach. One migrant was reported to have been killed in the conflict that ensued (Australian Consular Bulletin, 3 April 1999; *Bali Post*, 4 May 1999). Arguably these extreme forms of popular 'justice' are part of a phenomenon too widespread to be ascribed to particular adat systems. The *Jakarta Post* (20 April 2000) reported 65 cases of mob murders of suspected criminals in the streets of Jakarta in the first four months of 2000.

60 Regarding due process, it is worth noting that adat law did incorporate procedural rules. Traditionally, any refusal to participate in adat activities, or failure to comply with a decision of the village assembly (krama banjar or krama desa), could trigger a staged series of sanctions, beginning with fines and ending in expulsion. Ordinarily the decision of three banjar meetings would be required before due process was considered to have taken place in the exercise of serious adat sanctions.

61 See Kingwell (1995) for considerations of civility as engaged and participatory citizenship. Kingwell adopts a philosophy toward modern individualism that is probably closer to a Balinese perspective than are Foucauldian-inspired approaches. Like Putnam (2000), he regards contemporary American notions of liberty as bordering on the 'pathological' in their excessive focus on individual freedom to pursue private interests at collective expense.

62 In the case of the successful adat community resistance to the hotel development at Padanggalak in 1997, not even the governor of Bali was persuaded by the argument, put by a military figure, that because the written awig-awig of Desa Kesiman included no reference to banishment (*kasepékan*) for adat transgression, such a sanction could not be applied. That threat of expulsion by his own desa adat was the one sanction which succeeded, where impact assessments, protest demonstrations, and political party criticism had not, in preventing for the first time a planned tourism development at a significant adat site.

63 'The prestige of the desa adat as the officially recognized authority for managing the territory of Bali, particularly with respect to migrants, investors, and guests, will increasingly demonstrate that Bali is indeed different from other places. Certainly, though, our pride in this must be balanced by a desire to analyse the practices of the desa adat, so that what results is not arrogance and the creation of a state within a state' (*Bali Post*, 11 July 2003).

64 Day (2002) asserts a certain complicity of interest on the part of the state in permitting chronic, low-level local violence.

References

Aditjondro, G. (1995) *Bali, Jakarta's Colony: social and ecological impacts of Jakarta based conglomerates in Bali's tourism industry*, Perth: Asia Research Centre, Murdoch University (Working Paper 58).

Bakker, F.L. (1993) *The Struggle of the Hindu Balinese Intellectuals: developments in modern Hindu thinking in independent Indonesia*, Amsterdam, VU University Press.

Barth, F. (1993) *Balinese worlds*, Chicago, Illinois: University of Chicago Press.

Benda-Beckmann, F. von and Benda-Beckmann, K. von (2001) 'Actualising history for binding the future: decentralisation in Minangkabau', in P. Hebinck and G. Verschoor (eds) *Resonances and Dissonances in Development: actors, networks and cultural repertoires*, Assen: Van Gorcum.

Bourdieu, P. (1977) *Outline of a Theory of Practice*, Cambridge: Cambridge University Press.

Day, T. (2002) *Fluid Iron: state formation in Southeast Asia*, Honolulu: University of Hawai'i Press.

Dharmayuda, I.M.S. (2001) *Desa Adat: kesatuan masyarakat hukum adat di Propinsi Bali*, Denpasar: Upada Sastra Yayasan Karya Ikapi / Ford Foundation.

Dirlik, A. (1994) *After the Revolution: waking to global capitalism*, Hanover, New Hampshire: Wesleyan University Press.

Geertz, C. (1973) 'Thick description: toward an interpretive theory of culture', in C. Geertz (ed.) *Interpretation of Cultures*, New York: Basic Books.

Geertz, H. and Geertz, C. (1975) *Kinship in Bali*, Chicago: University of Chicago Press.

Gellner, E. (1994) *Conditions of Liberty: civil society and its rivals*, London: Hamish Hamilton.

Hobsbawm, E. (1994) *The Age of Extremes: the short twentieth century 1914–1991*, London: Michael Joseph.

Kingwell, M. (1995) *A Civil Tongue: justice, dialogue and the politics of pluralism*, University Park, Pennsylvania: Pennsylvania State University.

McCay, B. (2001) 'Community and the commons: romantic and other views', in A. Agrawal and C. Gibson (eds) *Communities and the Environment*, New Brunswick, New Jersey: Rutgers University Press.

McCay, B. and Jentoft, S. (1998) 'Market or community failure? Critical perspectives on common property research', *Human Organization*, 57: 21–9.

McLean, S., Schultz, D. and Steger, M. (eds) (2002) *Social Capital: critical perspectives on community and 'bowling alone'*, New York: New York University Press.

Marcus, G. (1998) 'Ethnography in/of the World System: the emergence of multi-sited ethnography', in G. Marcus (ed.) *Ethnography Thick and Thin*, Princeton, New Jersey: Princeton University Press.

Picard, M. (1996) *Bali: cultural tourism and touristic culture*, Singapore: Archipelago Press.

—— (2004) 'What's in a name? Agama Hindu Bali in the making', in M. Ramstedt (ed.) *Hinduism in Modern Indonesia: a minority religion between local, national, and global interests*, London: Routledge Curzon.

—— (2005) '*Otonomi daerah* in Bali: the call for special autonomy status in the name of *kebalian*', in M. Erb, P. Sulistiyanto, and C. Faucher (eds) *Regionalism in Post-Suharto Indonesia*, London: RoutledgeCurzon.

Putnam, R. (1993) *Making Democracy Work: civic traditions in modern Italy*, Princeton, New Jersey: Princeton University Press.

—— (2000) *Bowling Alone: the collapse and revival of American community*, New York: Simon and Schuster.

Putzel, J. (1997) 'Accounting for the "dark side" of social capital: reading Robert Putnam on democracy', *Journal of International Development*, 9: 939–49.

Pye, L.W. (1999) 'Civility, social capital, and civil society: three powerful concepts for explaining Asia', *Journal of Interdisciplinary History*, 39: 763–82.

Simarmata, R. and Masiun, S. (2002) 'Regional autonomy and the character of local government laws and regulations – new pressures on the environment and indigenous communities: a preliminary diagnosis', paper presented at the Ninth Biennial Conference of the International Association for the Study of Common Property, Victoria Falls, Zimbabwe, 17–21 June.

Suasta, P. and Connor, L. (1999) 'Democratic mobilization and political authoritarianism: tourism developments in Bali', in L. Connor and R. Rubinstein (eds) *Staying Local in the Global Village: Bali in the twentieth century*, Honolulu: University of Hawai'i Press.

UNDP, USAID, and World Bank (2003) *Bali Setelah Tragedi: dampak dan tantangan pembangunan berbasis pariwisata di Indonesia*, Jakarta: United Nations Development Program Indonesia, United States Agency for International Development, and World Bank.

Uphoff, N. and Langholz, J. (1998) 'Incentives for avoiding the tragedy of the commons', *Environmental Conservation*, 25: 251–61.

Warren, C. (1993a) *Adat and Dinas: Balinese communities in the Indonesian state*, Kuala Lumpur: Oxford University Press.

—— (1993b) 'Disrupted death ceremonies: popular culture and the ethnography of Bali', *Oceania*, 64: 36–56.

—— (1998) 'Tanah Lot: the political economy of resort development in Bali', in P. Hirsch and C. Warren (eds) *The Politics of Environment in Southeast Asia: resources and resistance*, London: Routledge.

—— (2005) 'Mapping common futures: customary communities, NGOs and the state in Indonesia's reform era', *Development and Change*, 36: 49–73.

Warren, C. and McCarthy, J. (2002) 'Customary regimes and collective goods in Indonesia's changing political constellation', in S. Sargeson (ed.) *Collective Goods, Collective Futures in Asia*, London: Routledge.

Wilkinson, J. (1991) 'Electioneering in Tegalbelig: aspects of social change in an isolated Balinese Community', *Review of Indonesian and Malaysian Affairs*, 24: 39–54.

9 The many roles of adat in West Sumatra

Renske Biezeveld

The demise of the New Order in 1998 ushered in a search for new ways of governing Indonesia. Throughout the country there were calls for *reformasi*, or 'reform'. In the first place this meant democratization and an end to corruption, collusion, and nepotism. What else it would mean, however, was often unclear. During the 32 years of the New Order, political party independence had been circumscribed, and the development of civil society organizations (CSOs) restricted. Despite reformasi, to a large extent people still lack the capacity to engage in political activities, lobby for their interests, engage in public debate, suggest alternative policies, or resolve conflicts peacefully (Antlöv 2003: 74–5). In 1998, when I returned to the Sumatran village where I had conducted fieldwork before, I already observed that a renewed role of adat (customary) institutions in government might offer a way out of Indonesia's political malaise. Not everybody, however, was in favour of a stronger role for adat leaders. One cause for concern was the question of whose interests would be represented by adat, and whose would not. Critics also argued that adat was old-fashioned and that adat leaders were frequently not the most capable of people. More beneficial, these critics suggested, would be the creation, development, and strengthening of a 'civil society' reaching beyond ethnic, religious, or regional boundaries. However, civil society's role in a contemporary Indonesia experiencing a rise in sectarianism, ethnocentrism, and renewed regionalism is itself uncertain. Many CSOs are actually exclusive in character, encompassing only small interest groups. It is wrong to see adat and civil society as two opposing forces. In fact the foundations of some CSOs are based on adat.

This chapter analyses the past and present roles of adat in West Sumatra, and the competing ways in which different social groups in the region have perceived adat at different periods. Particular attention is paid to the recent revival of adat as a result of the process of regional autonomy. The chapter is structured as follows: a brief backdrop to the Minangkabau and West Sumatra; a discussion on competing local meanings of adat; a survey of colonial state influence on Minangkabau perception of adat; an exploration of Minangkabau identity. It ends with a discussion of the recent 'return to

the village' (*kembali ke nagari*) movement and with suggestions why, despite its initial enthusiasm, this movement may be loosing steam.

Given Indonesia's great cultural and ethnic heterogeneity, West Sumatra is often seen as a relatively homogeneous region with regard to culture and adat. The majority of people in the province belong to the Minangkabau ethnic group, who in the main are Muslims and share a strong ethnic identity. This does not mean, however, that different opinions do not circulate within West Sumatra as to the role adat should play in daily life, and in particular with regard to the relationship between adat and Islam.

The *nagari* is the indigenous Minangkabau unit best described as a village, or a conglomeration of villages or settlements. It has often been seen as an autonomous 'village republic'; the content and extent of this autonomy is debated, however. While according to adat, all land belongs to a nagari, each nagari still subscribes to its own adat, which often differs from adat traditions in neighbouring nagari.

One factor that explains such differences is the distinction between *Koto-Piliang* and *Bodi Caniago* villages. The social structure of the former is more hierarchical than that of the latter (see Joustra 1923; Kato 1982; Dobbin 1983). A second factor is the age of a nagari. Although foundational dates are hard to pinpoint, Minangkabau generally agree on which are older than others. In the oldest nagari of the Limapuluh Kota district, the district where I have conducted fieldwork, adat traditions such as those concerning ceremonial clothing and rituals, the building of big houses (*rumah gadang*), and the reckoning of descent tend to be adhered to strongly. In newer nagari, like the one where I did my fieldwork, these issues are less important. A third factor is a nagari's wealth. Those nagari that function as centres of trade and non-agricultural activities have more elaborate rules concerning ceremonies, whereas in predominantly agricultural villages people lack the resources for expensive ritual clothing and fancy rumah gadang. Markets also tend to generate larger internal differences in wealth and social status than do agriculture-based nagari.

The inhabitants of a nagari are divided into matrilineal clans (*suku*), while each suku is further divided into lineages and sub-lineages, the terms for which vary among nagari. Some examples include *kaum*, *kampung*, *jurai* and *payung*. All clans and lineages are headed by lineage or clan heads (*panghulu*).

The meaning of adat

According to the renowned Indonesian historian Taufik Abdullah (1966), adat can mean either local custom or a society's fundamental structural system, of which local custom is only a component. In this latter sense adat forms the basis of all ethical and legal judgements and the source of social expectations. In short, it represents the ideal pattern of behaviour. Abdullah

(1971, 1985) also emphasizes the fact that adat is an adaptive, dynamic, and flexible concept; it is not a fixed set of rules.

Although local adat is still to some extent recognizable, over time a shift has occurred in the direction of regional uniformity in adat. This arises from the ways in which supra-nagari entities understand adat and make it applicable in, for example, state courts. This process dates from Dutch colonial times (K. von Benda-Beckmann 1984: 4–5, 41–4). In 1901 the colonial government announced a policy programme known as 'ethical politics', which aimed to show a 'paternalistic concern for the welfare of Indonesia's native population, presumed to be threatened by untrammelled commercial development and westernisation' (Kahn 1993: 187). The study of adat was an important dimension of this ethical politics. In large anthologies, entitled *Pandecten van het Adatrecht* (Adat Law Compilation) and the *Adatrechtbundels* (Adat Law Volumes), adat cases were explained for the benefit of colonial civil servants. In Minangkabau, as in most adat systems, there is actually no conception of 'adat law'. Adat is internally differentiated, and one therefore must take care to distinguish the law in adat from adat in the sense of behaviour patterns (Kahn 1980: 81). Van Vollenhoven, the founder of the Leiden School of adat legal scholarship, sought to relate to the law in adat. In time the law in adat was gradually transformed (although this was never Van Vollenhoven's intention) into a separate category of 'adat law'. In the process it came to be interpreted and applied in the context of Western legal thinking, and it became progressively standardized (see Chapters 2 and 3 in this volume). Adat law therefore differs in part from the adat that is practised in villages. As anthropologists have noted, however, over time the former has markedly influenced the latter (F. and K. von Benda-Beckmann 1985: 239–41).

Another reason for the waning of locally differentiated adat is that village youth typically have refrained from studying it in depth. While adat, as part of the study of 'culture' (*kebudayaan*), is compulsory in school, what is taught is a reflection of the 'unitary adat' as approved by government-appointed adat specialists from the official Minangkabau Adat Council (Lembaga Kerapatan Adat Alam Minangkabau, LKAAM). A provincial-level body, LKAAM was formed by a group of educated, urban panghulu, many of whom were civil servants, for the purpose of preserving and disseminating information about Minangkabau adat. Because LKAAM was organized under state auspices, its publications were at pains to accommodate adat principles within the state ideology, *Pancasila* (on this, see Bourchier in this volume, Chapter 5). Since reformasi, however, LKAAM publications have grown more critical (Blackwood 1995: 143; Kahin 1999).

Within villages, different groups use different definitions of adat. For young people who had spent a long time away from the village, adat is anything labelled 'traditional' or even 'backward', from formal rules concerning land rights and inheritance to notions concerning 'propriety' or 'fairness'. For villagers with adat-related positions – for example, as

members of the village adat council (*Kerapatan Adat Nagari*, KAN) – the meaning of adat is more restrictive. They would hesitate, for instance, to call kinship matters adat, since KAN usually does not handle these matters.

Krier, an anthropologist who did fieldwork among the Minangkabau in the early 1990s, writes that:

> most Minangkabau learn the rules of *adat* not through careful studies with experts, but in the context of what Sally Moore has called 'diagnostic events'; moments that reveal ongoing contests, conflicts and competition and the efforts to prevent, suppress or repress these.
>
> Krier (1994: 14)

This refers to the adat as it is understood by ordinary people, and differs from the more strict 'adat law'.

In Minangkabau society, adat and Islam contain dimensions that seem contradictory and require ideological and social reconciliation. Matrilineality is the most notable (F. and K. von Benda-Beckmann 1988: 198). Although nowadays people make great efforts to show that the relationship is no longer problematic, in reality this is not always the case. The relationship between adat and Islam in West Sumatra has a long history of vigorous debate and struggle to determine which will prevail. Generally speaking, two relevant views persist. The first is that adat is based on faith, which is predicated on the book (the Qur'an). In this view, Islam takes precedence over adat. The second perspective maintains that adat is based on faith and faith is based on adat – that is, adat and Islam are mutually reinforcing. When I did my fieldwork in 1996 and 1998, most people I talked to seemed to adhere to the first view. While anthropologists have in general paid adat more attention than Islam, historians have treated the two as an interrelated complex relationship (Abdullah 1966; Whalley 1993: 21). Although in certain aspects, such as land rights and inheritance the role of adat is somewhat clear, many Minangkabau, especially those who lack an adat rank or position, tend to identify more with Islam. Muslim authorities have outmanoeuvred adat functionaries in extending their influence outside the village, and even beyond Minangkabau, as was already apparent in the 1920s (Oki 1977; Young 1994). The problem for adat leaders has only increased over the years, as connections between village life and the outside world have strengthened.

Social stratification within the nagari is aptly sanctioned and supported by adat. In Minangkabau society, a distinction exists between the descendants of the original founders of the nagari (*orang asli*) and newcomers (*orang datang*). The latter can be adopted into a sub-lineage, but can never become panghulu. Various expressions are also used to refer to former slaves and newcomers. Two well-known adat expressions are *kamanakan dibawa lutut* – relatives below the knees, for slaves – and *kamanakan dibawa pusek*, relatives below the navel, for newcomers (see, for example, F. von Benda-Beckmann 1979: 63). These expressions refer respectively to relatives tied by blood

(descendants of the founders) and relatives tied by adat (newcomers). Descendants of newcomers maintain their newcomer status, although in some cases their families have inhabited the village for generations. Among nagari, however, rules vary regarding the rights of newcomers' descendants. For example, in some nagari they have the right to create a panghulu title, whereas in other nagari they do not. Furthermore, in some nagari their access to irrigated and unirrigated farmland is much more limited than in other nagari. Further distinctions between orang asli and orang datang are found in ceremonial clothing and the size and form of the rumah gadang.

Often, these distinctions stem from the fact that newcomers generally have less access to natural resources, most notably land. Over time distinctions can blur, however, and in some nagari marriage rules have been less strict than in others. In the nagari of Sungai Kamuyang, where I conducted research, villagers tend to regard the insider/outsider distinction as a *feodal* (feudal) anachronism. With the current revival of adat, however, it may possibly regain importance.

The position of women in Minangkabau society has received a great deal of scholarly attention, largely because of the uneasy relationship between its matrilineal kinship structure and Islam's patriarchal characteristics. A matrilineal kinship system means that descent and inheritance are organized through the female's line. In the past, this was often misleadingly called 'matriarchate', suggesting a dominant position for women. Descent should not be confused with authority, however. The fact that there is a matrilineal kinship system, and that women own and inherit property, does not mean that they predominate in all fields of social life. On the other hand, many early anthropological accounts of authority among the Minangkabau are also inaccurate, for they overemphasize the dominant role of the panghulu and failed to appreciate the authority of elder women. Colonial policy makers, too, often assumed that the heads of Minangkabau families were always men. Korn (1941), however, showed that senior women often acted as family heads and that this did not always imply the absence of a man due to migration, divorce, or widowhood: the keeper of the inherited property (*pusako*), who was often a woman, was seen as the family head. This is consistent with Willinck (1909: 391–2, 397), who writes that the eldest common ancestress actually stood above the *mamak* (maternal uncle).

While gender roles can be explored in relation to economic and political power, they can also be examined ideologically. Within adat the perception of women is not consistent. Take, for example, the writings of H. Idrus Hakimi Dt Rajo Panghulu, one of West Sumatra's best-known and prolific adat specialists. On the one hand, he suggests that 'women possess a character that is weak [*lemah*] if compared to the character and ability of men' (Idrus 1991: 46–7, cited in Krier 1994: 82). On the other hand, he has also written that 'the views and opinions of women are decisive for the success or failure of any enterprise carried out within the circles of the lineage or clan' (Idrus 1986: 81, cited in Van Reenen 1996: 35). Islam, meanwhile, emphasizes the

domestic role of women. Krier (1994: 8) notes that 'according to Muslim gender ideology, women are less complete than men both physically and mentally'. There are, however, local Islamic streams that allow women a role in public life too (Whalley 1993: 12; Kahin 1999: 80–1).

Finally, the domestic role of women resonates with the dominant ideology under the New Order, which held that women should above all be supportive wives and nurturing mothers. They were expected to take care of the household, ensure harmony at home, and educate their children, while their role as income earners was downplayed. Their economic activities were perceived either as supplemental to their husband's income or as threat to their own proper roles. This image is in part based on a Western middle-class ideal, which has influenced government policy in Indonesia since colonial times (Whalley 1993: 18; Blackwood 1995: 135–6; Tiwon 2000). For many village women, however, the ideal may have to do less with belief in the ideology of domesticity than with the status associated with not having to work because one's husband is wealthy (Biezeveld 2002: 70).

The influence of (colonial) government on adat in West Sumatra

From its inception, the colonial government significantly influenced the internal distribution of power and property rights within villages. The periods of forced delivery of coffee (1848–1908), liberalism, and later on independence all demanded different conceptualizations of property rights that would serve the government's interests. Indigenous property rights, contained in adat, had to be reinterpreted, re-adapted and manipulated for the different goals of these regimes. Although the direction and the level of external government interference have differed over these periods, ultimately their goal remained the same: to shape the nagari as a vehicle for implementing policies initiated from the centre. Nevertheless, the nagari has managed to maintain much of its autonomy, administratively, economically and culturally (Kahin 1999: 257), although again this has varied among cases.

Regarding the critical question of property rights in Minangkabau, some scholars and policy makers portray Minangkabau as a 'communalistic' society, while others stress its individualistic properties. This debate has been driven mainly by the desire of policy makers to exploit the region effectively and to lay hands on the large amounts of communal land in the nagari. Efforts to expropriate communal land were often justified by scholars who were, in fact, colonial civil servants (for example, Willinck 1909; Westenenk 1918).

Although in the so-called Long Declaration (*Plakat Panjang*) of 1833 the Dutch initially promised not to interfere with adat institutions, they betrayed their promise. By introducing the *koffiestelsel* – the system of forced delivery of coffee – the Dutch demanded significant political and administrative changes to facilitate the extraction of coffee from the villages. Panghulu in each nagari, who had governed jointly, were now to select one of their

number to serve as village head, the so-called *panghulu kepala* or *nagarihoofd*. He acted as the community's spokesman in its relations with the Dutch administrators and relayed their orders to his constituents. Dutch desires to preserve adat to curb Islamic influence, along with a preference for order, also led to Dutch interference in the selection of the panghulu (Graves 1981: 39). This had the effect of ossifying once-fluid patterns of social stratification in the village. The number of panghulu, for instance, became fixed, making it impossible to create new titles to accommodate the growth of a sub-lineage or fission due to conflict within a lineage.[1] In effect the status quo was maintained, thus seriously curtailing internal social mobility. The government-recognized panghulu were made responsible for collecting government taxes, thereby gaining access to new sources of power and wealth. At the same time, however, this made them unpopular in the eyes of ordinary villagers (Oki 1985: 225).

Owing to intensified coffee cultivation, the circulation of money increased appreciably; this money in general was held individually. The production of coffee after all did not take place on communal lineage land, but instead on dry fields, over which the lineage has only limited influence (Kahn 1976: 82; F. and K. von Benda-Beckmann 1985: 261; Van Reenen 1996: 108). Since the Dutch restricted inter-nagari trade, the money acquired as payment for compulsory coffee deliveries remained within the nagari, thus affecting its economy and social life. The growing availability of money led to a monetization of property relations, as pawning transactions during the koffiestelsel increased. While some villagers earned considerable sums of money, many others did not. When cash was needed, for example, to buy rice for subsistence needs, this latter group were forced to pawn their land. Pawning and subsequent redemption of pawned land by individuals led to a new type of internal lineage differentiation with regard to access to land. In West Sumatra it is possible for people to use individually earned money (*pancarian*) to pawn land from other lineages, but also to redeem lineage land (*pusako*) with pancarian money. In this way, the rights to lineage property became individualized. This process of individualization of pusako property was interpreted as a breakdown of the matrilineal system, but what in fact was happening was that 'actual exploitation rights were brought to smaller social units' (F. and K. von Benda-Beckmann 1985: 260–1). All told, inequality within the lineage worsened.

Meanwhile, as the shift from extended lineages to smaller groups was occurring, the attitude of Dutch administrators changed. In 1908 a head tax was introduced and a single person within a lineage was held accountable for paying this tax for every member of the lineage. In this way, the Dutch sought to emphasize the communal character of lineages and property rights instead of individual rights. Units made responsible for the payment of taxes were those which the Dutch considered to own pusako property in common. For these groups the Dutch created a standard term, *kaum*. The kaum was represented by its head, the maternal uncle (*mamak*) whom the

Dutch called *mamak kepala waris* (the mamak who is the head of the heirs). The mamak became responsible for the pusako-complex in both tax and non-tax matters (F. and K. von Benda-Beckmann 1985: 264). From 1910 onward, communal land could no longer be registered in the name of the oldest living female, but rather in the name of the kin-group, specified by the name of its formal representative (K. von Benda-Beckmann 1991: 102).

Discussions about pusako property gained further significance among Western scholars when, in the late 1920s, colonial courts started to accept disputes between kaum about pusako property as a matter of principle (Guyt 1936: 146; K. von Benda-Beckmann 1984; F. and K. von Benda-Beckmann 1999). The courts' application of adat law disregarded internal differentiation of property relationships. This meant that individual kaum members, often women, could not bring disputes to court, because only the mamak could do so. The courts furthermore interpreted adat rules narrowly, and they did not take into account the particular circumstances of the case in question. As a result, decisions were made that substantially differed from local adat procedures (Korn 1941: 301–2; F. and K. von Benda-Beckmann 1985: 270–1).

According to Van Vollenhoven, both individual and communal tenure were Western legal concepts that made little sense in Indonesian adat. Instead, patterns of land use in Indonesia were firmly embedded within existing jural communities (*rechtsgemeenschappen*). While individual cultivation or other use of land was found in Indonesia, 'nowhere in Indonesian *adat* law does the individual household appear to have the status of an autonomous jural community' (Van Vollenhoven 1907, cited in Holleman 1981: 45). Instead, individual use of land is always subject to the rights of disposal or avail (*beschikkingsrecht*) of the jural community as a whole. To stress the unique character of Indonesian property rights, Van Vollenhoven (1909: 29–30) introduced the term '*inlandsch bezitrecht*' (indigenous property rights), which implied that lineages as groups could own property. Still, Van Vollenhoven could not entirely avoid interpreting rights in a Western perspective. The right of ownership (*eigendom*) in Dutch law is the most inclusive right, which includes the right to use and exploit property. Lesser rights must be derived from ownership. According to this logic, units below the lineage level could only possess lesser rights, such as use rights. Dutch conceptions of property rights thus exaggerated, and enhanced, the role of the corporate lineage in matters of property rights (F. and K. von Benda-Beckmann 1985: 266–7).

Economists like Boeke, along with other Dutch writers, presented the Indonesian economy as a peasant economy, and Indonesian culture as a traditionalist culture, in opposition to modern or capitalist forms of economic organization, based on free wage-labour, that characterized Western economies (see Henley and Bourchier in this volume, Chapters 4 and 5). As proponents of ethical politics they sought to protect Indonesia's native population

from untrammelled commercial development and Westernization (Kahn 1993: 187). The governor of Sumatra's West Coast, J. Ballot, was a key voice for ethical politics. He sought to prevent large-scale alienation of land by the colonial government by depicting the Minangkabau as living in village communities that held land as communal property (Ballot 1911).

Although there have been many differences among nagari in the way land rights are distributed, a distinction between lineage land (*pusako*) and collective village land (*ulayat nagari*) fundamental. The description of a nagari as a 'village republic' in the colonial period was predicated in the main on the idea that there were village property rights to all land not under cultivation (Van Vollenhoven 1919; Verkerk Pistorius 1871). This idea became subject to fierce disputes, when the colonial government issued the Agrarian Act and the Domain Declaration (*Domeinverklaring*) in 1870. The latter provided that 'all land which is not proven to be held with the right of ownership (*eigendom*) shall be deemed the domain of the state' (F. von Benda-Beckmann 1979: 211). This made it necessary for the colonial state to define the nature of the relation that indigenous people had to land.[2] The meaning of *eigendom*, however, was problematic because legal scholars held differing opinions on how to interpret indigenous property rights (see also Fitzpatrick in this volume, Chapter 6).

If there were village property rights to land, as scholars like Verkerk Pistorius (1871: 53–4), Van Vollenhoven (1919), and Ballot (1911) maintained, then the Domain Declaration contravened adat. Willinck, on the other hand, claimed that what others termed village property rights amounted only to the exercise of a certain right of supervision (*toezichtrecht*) by the nagari council, itself made up of lineage heads (1909: 647).

To say that there were village property rights to all land not under cultivation ignores the fact that in many nagari part of the uncultivated land was already divided among lineages (see also Willinck 1909: 640). Most likely at the time when the debate took place, there was already considerable variation among nagari with respect to the amount of land that was still controlled by the nagari and the amount that had already been divided among the lineages. The question of village property rights continues to be debated today, and the assertion or defence of such rights is one important argument for restoring the old nagari.

In 1915 the Dutch enacted the Nagari Ordinance, as a means to promote greater village autonomy under the Ethical Policy. Village councils (*nagariraden*) consisting only of the core panghulu (supposedly those panghulu belonging to the families of the original founders of the village) were established to implement the wishes of the colonial government (Oki 1985: 225). The village council was designated as the lowest level of the colonial administration. It stood alongside the adat council (*rapat panghulu*), which weakened the position of the panghulu. The panghulu lost such economic privileges as the collection of *uang adat* (nagari levies) to the village councils (Oki 1985: 225). Although the core panghulu benefited from their

administrative position, their authority predicated on adat was undermined. The creation of village federations (*laras*) for administrative matters removed the most significant issues from the authority of the old nagari council (Graves 1981: 40). Later, other institutions such as a European-style court further reduced adat functions. The creation of a civil service, with agricultural inspectors and supervisors, office clerks, and secretaries and other low-level jobs, formed an outlet for individuals seeking upward mobility. For some, upward mobility had been hampered by Dutch interference, because of the prohibition against creating new panghulu titles; others were blocked from adat functions anyway. The growing influence of modernist Islamic forces that operated above the level of the nagari further weakened panghulu positions (Graves 1981: 47–8; Oki 1977: 81; see also Schrieke 1955). This movement tried to accommodate the modes of thought and social organization of the industrial era that look far beyond the boundaries of the village, while at the same time defending the purity of faith (Young 1994).

In 1908 a period of economic liberalism had set in. From the 1920s onwards, this led to a real export crop boom (Oki 1985: 216–18). The new economic prosperity facilitated a more outward-looking attitude among the Minangkabau. Many people, for example, made the pilgrimage to Mecca, and came back with renewed Islamic zeal. Others took advantage of opportunities for more secular education. The 1920s were also a period of economic stratification. Notwithstanding the prosperity enjoyed by some, there also was serious poverty. With the introduction of the Ethical Politics programme in 1901, Western education developed, but so did modern religious schools (Kato 1982: 110). This period has been characterized as one of intellectual development. Nearly every town in West Sumatra published its own newspapers and magazines, written in Dutch, in the Minangkabau language, or in the new nationalist language, *bahasa Indonesia* (Indonesian). Within Minangkabau society, tensions between conservative panghulu, who emphasized a Minangkabau identity and wanted to preserve adat, and Islamic modernists or secular nationalists, who privileged an Indonesia-wide, national identity, persisted. Minangkabau regionalism, radical nationalism, communism, and Islamic modernism combated each other (Kahin 1999: 84–7). What these modes of thought had in common, however, was their trust in non- or pre-capitalist, as opposed to Western, ways of life. Islamists, secular nationalists, communists, socialists, and traditionalists all in their own way opposed colonialism and, in particular, its repressive tax system (Oki 1977; Kahn 1993, 1999).

This was also a period of great social instability. Panghulu were dissatisfied with their ever-diminishing authority; the educated youth felt constrained by the rigid framework of adat; Islamic leaders felt oppressed by the colonial government; the growing middle class demanded a social status congruent with its economic strength; and the peasants resented taxes (Schrieke 1955: 126, 130–4, 160–6). Against this background of unrest, the planned introduction of a land tax provoked communist-led uprisings in

late 1926, most notably in Padang Panjang and Silungkang, poor regions where merchants were relatively more important than in the rice-producing plains villages of the Minangkabau heartlands (Schrieke 1955; Oki 1977: 94). In the heartlands, most panghulu opposed the revolt and used adat as a counter-ideology to communism. Their influence was stronger here than in the outlying regions because of their co-ordinating role in rice production. There were, however, also panghulu who joined the abortive revolt. These radical panghulu were disaffected petty merchants, who suffered from exploitation by the colonial government. Communists in West Sumatra, meanwhile, attempted to exploit the language and logic of adat and even Islam – for example through reference to the deprivation of the population of ulayat lands by the Dutch (Oki 1985: 231–2).

The world economic depression that begun in 1929 was immediately felt in the Netherlands Indies, ending the period of economic fortune and intellectual ferment. Export crops were abandoned as people once again concentrated on rice production, and traditional norms and values were reasserted. Adat leaders, who to some extent co-ordinated rice cultivation and irrigation, regained much of their old status (Oki 1977). Oki shows how, across West Sumatra, local communities coped with the economic crisis essentially by reverting to subsistence production. There was increased co-operation among panghulu, even beyond the boundaries of their own nagari. Their positions were thereby enhanced. With their increasing power, however, they also increasingly used the opportunity to pawn out lineage land without the consent of other lineage members. This was one reason why after the Japanese occupation (1942–5), resistance to panghulu authority resurfaced (Kahin 1999). During the period of the struggle for independence, from 1945 to 1949, power within the nagari shifted again from the adat leaders, who had become an essential part of the colonial administrative system, to men primarily belonging to religious parties. The Dutch had previously excluded these leaders from exercising any real political or administrative authority within their communities (Kahin 1985: 319–20).

Minangkabau identity

As Minangkabau intellectuals became engaged in debates about the character of their society, in the first decades of the twentieth century, the debate about adat increasingly extended beyond the content of 'adat law', to the idea of adat as 'the whole structural system of the society'. This resulted in contrasting images of what Minangkabau society is, has been, or should be.

Intellectuals emphasized the image of a traditional village economy governed by principles of mutual respect and co-operation, in opposition to the contemporary development of a money economy dominated by base desire (*hawa nafsu*). Compared with colonial Dutch writers on the peasantry, whose primary concerns involved preserving elements of traditional economic organization, Indonesians attached more importance to the cultural values

underpinning traditional economic life (Kahn 1993: 126). This search for cultural values took place not only in Minangkabau but also across Indonesia. The fact that people looked for Indonesia-wide similarities led to generalizations that did not do justice to the situation in Minangkabau.

Scholarly characterizations of Minangkabau society prior to 1908, when the forced delivery system was abandoned, have long been coloured by the views of Schrieke in the so-called 'West Coast Report' (1928). The importance of this work was sealed when Clifford Geertz gave it prominent attention in *Agricultural Involution* (1963). The premise of Schrieke's study was that, prior to 1908, Minangkabau society was static, traditional, and absorbed, in economic terms, with subsistence production. This assumption, however, was an exaggeration. In the nineteenth century the economic organization in West Sumatra was already structured to allocate labour units in both subsistence and commercial sectors. As far as there was a predominance of production for use and a relative lack of commercial activity, this was far more attributable to the impact of colonial government policies than to the cultural dispositions or economic attitudes of 'traditional' Minangkabau society (Young 1994: 145, 233).

Following independence, the construction of a national identity continued. In an attempt to buttress nationalist feelings during the war for independence, Sukarno and Hatta emphasized the idea of collective, consensual and co-operative social relations as exemplary of Indonesian culture (see Henley in this volume, Chapter 4). This ideological presentation of the nature of society mirrored a traditional image developed by Indonesian intellectuals since the 1920s. For instance, one of the core concepts in the search for a national identity is *gotong-royong*, or 'mutual and reciprocal assistance' (Bowen 1986: 545). Although gotong-royong corresponds to genuinely indigenous ideals of moral obligation and generalized reciprocity, it has been reworked by the state to become a cultural-ideological instrument for the mobilization of village labour. As the term is currently used by the Indonesian government, gotong-royong no longer resembles voluntary co-operation. Work ordered by village heads is referred to as gotong-royong, or *kerja bakti* or *kerja sukarela* (voluntary work), or occurs under the banner of *Manunggal Sakato* (unified and unanimous). What makes matters more complicated for farmers is that, at the same time as the state is promoting the idea of communalism and gotong-royong as essential to the national identity of Indonesia, the persistence of this 'tradition' is referred to as 'obstructing the creation of an economically rational peasantry', making peasants themselves to blame for their under-development (Schrauwers 1999: 127).

Kembali ke nagari, the Minangkabau approach to *otonomi daerah*

Government interference in nagari affairs continued after independence. While in the early 1970s villages still contained a dualistic administration,

this changed when the New Order enacted Law no. 5/1979 on local government. Implemented locally in 1983, this law abolished the nagari as the lowest unit of local government. Each of the settlements (*jorong*) comprising a nagari was now recognized as a separate *desa* (village). Accordingly, some nagari were split up in ten or more *desa*. Underpinning the law on local government was, first, the notion that village government required strengthening to effectively enhance participation in development programmes, and, second, the perceived need to standardize village government (based on the Javanese example). The new law defined the *desa* as the lowest level of local government, but one with few autonomous tasks (Osmet 1991: 190–1; Kato 1989: 91–2; Kahin 1999: 258–61). Although people elected village heads (*kepala desa*), candidates were screened by the administration (Niessen 1999: 85). Moreover, the kepala desa was made accountable to the administration, not to the villagers (Simbolon 1998: 107). Village headmen did not receive a salary or a pension, but only a small allowance (*honor*). They could, however, ask for small sums to write official letters, distribute identity cards, and the like. More lucratively, they had easy access to all kinds of government subsidies. Still, village heads in West Sumatra were neither very wealthy nor of high status (see Galizia 1996).

The new law on local government weakened the position of adat, since according to adat the nagari had been the most important political unit. A degree of official status was restored to the nagari after all in that adat leaders were authorized to establish adat councils (KAN) to handle matters transcending the boundaries of an individual desa. Such matters included the management of communal land and the distribution of water for irrigation. Consisting exclusively of adat leaders (Kato 1989: 96–7), KAN councils could insist on handling many local disputes themselves before litigants could proceed to the state courts (F. and K. von Benda-Beckmann 2001: 10–11).

When I returned to West Sumatra after an absence of two years, in October 1998, I found that in the vacuum created by Suharto's fall, CSOs had emerged that based themselves on adat. Activists visited villages that, for example, were having trouble gaining control over what they regarded as their communal natural resources (ulayat nagari), consisting of land, but also water sources. The issues which they could play on were plentiful after the New Order's demise. One possible explanation for the (temporary) renewed role of adat was that New Order rule had restricted the space for establishing CSOs, and there were therefore few alternatives to which to turn. Since adat was something with which people were familiar, it provided a practical first-line way of mobilizing people. Meanwhile, the LKAAM, formerly linked to the New Order state party Golkar, became increasingly independent. Doubts persisted, however, as to whether adat institutions were the appropriate way to deal with contemporary issues. As in the past, the question of who stood to gain from the strengthening of these institutions resurfaced. Some groups tried to distance themselves from adat because they felt it did not represent their interests.

In January 2001, Law 22/1999 on regional government and Law 25/1999 on fiscal decentralization were implemented. One element of the former is a rather substantial democratic renewal of village governments. This includes the introduction of a new village council, a village representative board (BPD), and a separation of powers between the village council and the reformed village executive government (comprising a village head and his or her staff). Moreover, according to Law 22/1999, village governments can now be based on 'origins and local customs' (*asal usul dan adat istiadat*). Villages also have the right to reject development projects if appropriate funds, personnel, and infrastructure are lacking. In essence, village government is no longer oriented toward the state. The village head, for instance, is now accountable to villagers and must answer to them at council meetings. Among the autonomous powers given to villages is the right to generate more revenues. According to Antlöv (2003: 80), villagers are now sensing their right and capacity to exercise democratic authority over public matters affecting their home communities. There is a new sense of pride and self-esteem in the villages, a revival of an everyday form of democratic spirit once crushed by the New Order government.

When I was in West Sumatra in 2001, this spirit could indeed be sensed from conversations with people. I also noticed a revival of certain kinds of adat that had been dormant for years. In 1996, when I first arrived at my field site, I had tried to talk about adat, to find out how people conceptualized it, and how extensive their knowledge of it was. At that time people claimed not to know much; some even claimed they could not name the title of their *panghulu kampung* (the head of the sub-lineage). By 2001, however, not only did people 'remember' the title of their panghulu kampung, they also recalled the title of their *panghulu suku* (the head of the lineage), a function that had been obsolete for decades. In the years since 2001, in many villages there have been extensive ceremonies to install new panghulu, sometimes dozens of panghulu at a time. At one level this simply reflects the fact that many panghulu positions have remained vacant for years, but at another level it also indicates a genuine renewal of enthusiasm for the institution. The reason for this enthusiasm is not entirely clear and recently disillusionment has set in: when I came back in 2004 and tried to talk about the topics that people discussed so energetically in 2001, they were almost as indifferent as in 1996.

In West Sumatra, the right to base village governments on rights of precedence and local customs immediately led to the abolition of desa and reunification of nagari. One reason for reverting to the nagari structure was because of the many ties among the desa, mainly at the level of lineages, and the presence of village property that extended across the borders of the desa. The village government now consists of an elected village head, an elected legislative body, and an advisory body (DPAN) consisting of adat leaders, religious leaders, 'intellectuals' and women. Furthermore, a 'village adat

institution' (*lemabaga adat nagari*, LAN) was also instituted; its main tasks are to mediate in disputes relating to lineage property and to protect adat in general (F. and K. von Benda-Beckmann 2001: 8, 12, 14).

The district heads in Solok and Limapuluh Kota have actively promoted the process of returning to the nagari. They initiated collaborative economic activities with village governments and promoted the installation of new adat leaders who are educated and understand the way the modern economy works, in an endeavour to create 'reliable' village administrations (F. and K. von Benda-Beckmann 2001: 14). So, while traditional institutions are being restored, at the same time attempts are made to limit the power of incapable adat leaders.

Migration is common in West Sumatra. Successful emigrants, through the connection they feel with their home village (and to flaunt their success in the wider world), willingly spend money and energy on community development. Emigrants interpret their Minangkabau-ness, however, differently from ordinary villagers. For the emigrant, Minangkabau identity and solidarity extend beyond the boundaries of their own village. An interesting development is the emergence of so-called 'weekend adat heads'. These are emigrants, usually well off, who want to restore their ties to their village of origin, and therefore have themselves installed as panghulu. Theoretically, they return to their village during the weekend, to provide their lineage members with advice and perhaps also material support (see also Fanany 2003).

In the process of restoring the nagari structure, many villages also invited successful migrants to return to become village head (*wali nagari*). This was the case in Sungai Kamuyang, where I have conducted field research. Here the emigrant in question did not have an adat title, yet the villagers thought they needed such a person as village head to guide them towards modernity. Before he retired and returned to the village, this new wali nagari held a relatively high position in the district fisheries department of Tanjung Pinang in the province of Riau. Similar developments happened in other villages. Often maintaining close relations to each other, the new emigrant wali nagari have sought ways in which different nagari can co-operate more closely. It is too early to tell, however, what the outcome of this co-operation will be.

Sungai Kamuyang was the first nagari to reunify officially. Its enthusiasm for unification stemmed from the important natural resources, large amounts of land as well as a large water source providing drinking water for the town of Payakumbuh and a swimming pool, that belonged to its ulayat nagari. These communal resources had preserved a sense of a common identity among the village's different jorong. Reuniting would make it easier to manage these natural resources in such a way that the whole village would benefit. In other villages lacking a clear nagari identity, there apparently was little impetus to return to the nagari structure.

Where adat thus can play a role is in defending rights to natural resources. In Sungai Kamuyang, as in many other villages, a large plot of communal

village land (ulayat nagari) had been expropriated by the state or by large companies and cronies of the Suharto regime. In Sungai Kamuyang, already during the New Order's waning years the local community had started to reclaim these resources, but the struggle intensified with the inception of reformasi. Arguments predicated on adat seemed most able to contest the expropriations of land by the state and its agents and reclaim rights for the local population. The *masyarakat adat* (indigenous community) concept proved effective here (see Moniaga, Chapter 12 in this volume). A new problem arose, however. Once a village community regains rights to land, the next question to be addressed is how to allocate these rights among its inhabitants. Internal divisions often obstruct the equitable division of land. Although ideally speaking the adat order is based on solidarity, the dealings of adat leaders in daily practice often contrast with this ideal. When the villagers of Sungai Kamuyang first started their struggle in 1996, the meaning of nagari land for their livelihood was insignificant, since there were ways of making a living outside agriculture. Consequently, it was mostly small farmers who were involved. The village adat leaders supported the struggle, emphasizing that the land was needed to help the poor farmers within the nagari. In this way, they enhanced their prestige within the village, by demonstrating courageous concern for the underprivileged. With the onset of the economic crisis in 1997, however, the value of land increased significantly, because of the high price that export crops now fetched on the world market owing to the depreciation of Indonesia's currency. Not surprisingly, village leaders acquired an interest in exploiting the land, conveniently forgetting about the needs of the poorer villagers. Eventually, they claimed the land for themselves, justifying this on the grounds that they were the ones who had struggled for the land and were also in the best position to invest in it and use it (Biezeveld 2004).

The internal division of natural resources was also an issue for some villages when it came to the decision about whether or not to reunite as a nagari. In some places, descent according to adat is crucial to differences in power and affluence, and to the spatial divisions among the various jorong that make up a nagari. In other nagari, descent distinctions hardly exist any more. In some nagari whole jorong consist of descendants of newcomers, or even of slaves. This explains why those jorong prefer to retain the independence from the rest of the nagari which they obtained through the law on local government of 1983. Reunification would place them again in subordinate positions and disfavour them in matters of access to natural resources like communal (ulayat) land or irrigation water. Taratak Kubang in the Limapuluh Kota district is a case in point. This nagari consists of three jorong, one of which is populated by newcomers, with low status in adat. Yet, the jorong is rich in natural resources, and so had profited from the division of the nagari.

The recent regional autonomy legislation has given regions the opportunity to base local regulations more on local customs. For many Minangkabau,

this meant not only going back to adat but equally a strengthening of religious practices. They said that the return to the nagari (*kembali ke nagari*) had to go hand in hand with a process of going back to the prayer house (*kembali ke surau*).

As is often the case with 'Islamic' legislation, the creation of new regulations affecting women was among the first symbolic measures taken by local officials. In most districts of West Sumatra it has been made mandatory for female civil servants to wear the head scarf (*jilbab*), which is now also part of the school uniform. In Padang, the provincial capital, local authorities had enforced a night-time curfew for women (*Kompas*, 18 June 2001; Satriyo 2003: 221–2). Yet, opportunities have also arisen to use local culture to promote women's representation in formal public institutions. While some argue that the traditionally matrilineal structure of society as locally practised does not necessarily benefit women (Noerdin 2002: 182), the reintroduction of the nagari seems to have improved women's prospects for representation in government. According to Minangkabau adat, the *bundo kanduang* (a senior, respected woman in the family) occupies a central place in the social structure. Traditionally, there was one bundo kanduang in each house or clan; she administered the extended family and played an important role in resolving conflicts in the community. In the decentralization era, local people and authorities have attempted to revive, even institutionalize, the role of bundo kanduang. District regulations provide, in particular, that bundo kanduang should be appointed to the newly constituted nagari legislative bodies. Local women's groups are working to empower women who are already members of nagari legislative bodies, as well as forming links with other bundo kanduang who are not members, but who are determined to promote women's rights (Satriyo 2003: 225).

In Sungai Kamuyang, two women sit on the adat council. As civil servants, they are educated and relatively affluent. On taking their seats as bundo kanduang, however, they declared that they considered it their task to deal with traditional women's issues. For these adat councilwomen, what they meant by tradition was more reminiscent of the New Order activities of the Family Welfare Organization (PKK) and the organization of the wives of civil servants (*Dharma Wanita*) than of the role of Minangkabau women as described in literature on adat. They tried to convince me that this was the way it always had been in Minangkabau. This claim is consistent with the idea that the use of adat has much more to do with nostalgia than with a real understanding of, or a wish to return to, the actual content of adat as it used to be.

Concluding remarks

Over the years the use and status of adat have varied dramatically, as have the role and powers of adat leaders. There have always been critics of adat traditionalism, people who sought new ways of organizing local society

beyond the boundaries of the nagari, thereby limiting the role of the panghulu, whose power does not extend beyond the nagari. The critics, however, did not always lose their sense of 'Minang-ness'. Many emigrants who have been living outside West Sumatra for decades still consider themselves true Minangkabau. But there is a difference between their approach to adat and that of adat leaders in the villages. Whereas the latter see adat as a set of rules according to which life is (or should be) organized, the former tend to see it more as an expression, or symbol, of ethnic and cultural identity.

Looking at the new decentralized regime, can we than say that adat is really ascendant? 'Adat law' (*hukum adat*), in the sense of rules concerning land rights, descent and the like, certainly is not a strong focus of attention. Nor do 'adat leaders' seem to have regained political power. More than ever, the nagari is dominated by people who in the past would have been called *cerdik pandai* or intellectuals, who do not necessarily have adat positions. Many people, including women and so-called newcomers, are suspicious of the exclusionary potential of adat. In a modern, outward-oriented society, adat seems increasingly less acceptable as a basis for social organization. That is not to say, however, that the ceremonial, symbolic aspect of adat has also become redundant. In fact, panghulu-appointing ceremonies have been frequent since 1998.

Still, much of what is happening within the scope of the kembali ke nagari process has less to do with adat itself (however defined) than with efforts by individuals and groups to take advantage of the opportunities offered by the new political and economic autonomy of the villages. In this process, the Minangkabau identity remains critical, particularly in dealings with non-Minangkabau actors and in efforts to regain control over natural resources that were once under village jurisdiction. For successful emigrants, moreover, ethnic identity is an important reason to devote attention to the development of their village of origin.

Notes

1 It was once possible, if a lineage that held pusako property became too large, to split up the lineage and its property, creating a new panghulu title in the process. The same was the case if there was severe conflict within a lineage (F. and K. von Benda-Beckmann 1985: 260).

2 The purpose of the Agrarian Act was to facilitate the growth of foreign private investment in the agricultural sector, by making it possible for foreign entrepreneurs to acquire mortgageable land rights from the government, for periods of time long enough to make investment practical. A second purpose was to lease land from the indigenous population. The purpose of the Domain Declaration was to provide the colonial government with a legal basis for conveying Western civil code rights in land, since according to colonial legal theory, only the 'owner' of land could transfer civil code land rights, such as *erfpacht*, to another party (Gautama and Hornick 1983: 66–70). For the Sumatran districts under direct

government control, a separate domain declaration was issued in 1874, which differed from the one of 1870 to the extent that it recognized not only a right of 'ownership' in the Western sense for Indonesians but also a right of reclamation (*ontginningsrecht*) of waste land for the members of a nagari. But while the 1874 Domain Declaration did make certain provisions to protect at least the use rights of Minangkabau villagers to land already in cultivation (mainly wet rice fields), the main point of contention was the status of uncultivated land, or land that had been previously cultivated but on which cultivation had lapsed. According to the Domain Declaration, this land, classified as waste land, was declared to be the 'free domain' of the colonial state – its allocation, then, was to be entirely controlled by the colonial government (Oki 1977: 108).

References

Abdullah, T. (1966) 'Adat and Islam: an examination of conflict in Minangkabau', *Indonesia* 2: 1–24.

—— (1971) *Schools and politics: the Kaum Muda movement (1927–1933)*, Ithaca, New York: Cornell University Modern Indonesian Project.

—— (1985) 'Islam, history and social change in Minangkabau', in L.L. Thomas and F. von Benda-Beckmann (eds) *Change and Continuity in Minangkabau: local, regional and historical perspectives on West Sumatra*, Athens, Ohio: Ohio University Center for International Studies, Center for Southeast Asian Studies.

Antlöv, H. (2003) 'Not enough politics! Power, participation and the new democratic polity in Indonesia', in E. Aspinall and G. Fealy (eds), *Local Power and Politics in Indonesia: decentralisation and democratisation*, Singapore: ISEAS.

Ballot, J. (1911) *Ontwerp Agrarische Regeling voor Sumatra's Westkust*, Padang: De Volharding.

Benda-Beckmann, F. von (1979) *Property in Social Continuity: continuity and change in the maintenance of property relations through time in Minangkabau, West Sumatra*, The Hague: Martinus Nijhoff.

Benda-Beckmann, K. von (1984) *The Broken Stairways to Consensus: village justice and state courts in Minangkabau*, Dordrecht: Foris.

—— (1991) 'Development, law and gender skewing', *Journal of Legal Pluralism*, 30/31: 87–120.

Benda-Beckmann, F. von and Benda-Beckmann, K. von (1985) 'Transformation and change in Minangkabau', in L.L. Thomas and F. von Benda-Beckmann (eds) *Change and Continuity in Minangkabau: local, regional and historical perspectives on West Sumatra*, Athens, Ohio: Ohio University Center for International Studies, Center for Southeast Asian Studies.

—— (1988) 'Adat and religion in Minangkabau and Ambon', in H.J.M Claessen and D.S Moyer (eds) *Time Past, Time Present, Time Future: perspectives on Indonesian cultures, essays in honour of Professor P.E. de Josselin de Jong*, Dordrecht, Foris.

—— (1999) 'A functional analysis of property rights, with special reference to Indonesia', in T. van Meijl and F. von Benda-Beckmann (eds) *Land and Natural Resources in Southeast Asia and Oceania*, London: Kegan Paul International.

—— (2001) 'Recreating the *nagari*: decentralisation in West Sumatra', Halle: Max Planck Institute for Social Anthropology, Working Paper 31. Online. Available: <http://www.eth.mpg.de> (accessed 15 March 2006).

Biezeveld, R. (2002) *Between Individualism and Mutual Help: social security and natural resources in a Minangkabau village*, Delft: Eburon.

—— (2004) 'Discourse shopping in a dispute over land in rural Indonesia', *Ethnology*, 43: 137–54.

Blackwood, E. (1995) 'Senior women, model mothers and dutiful wives: managing gender contradictions in a Minangkabau village', in A. Ong and M.G. Peletz (eds) *Bewitching Women, Pious Men: gender and body politics in Southeast Asia*, Berkeley, California: University of California Press.

Bowen, J. (1986) 'On the political construction of tradition: gotong royong in Indonesia', *Journal of Asian Studies*, 45: 545–61.

Dobbin, C. (1983) *Islamic Revivalism in a Changing Peasant Economy: Central Sumatra 1784–1847*, London: Curzon Press.

Fanany, I. (2003) 'The first year of local autonomy, the case of West Sumatra', in D. Kingsbury and H. Aveling (eds) *Autonomy and Disintegration in Indonesia*, London: RoutledgeCurzon.

Galizia, M. (1996) 'Village institutions after the Law No. 5/1979 on Village Administration: the case of Rejang-Lebong in southwestern Sumatra', *Archipel*, 51: 135–60.

Geertz, C. (1963) *Agricultural Involution: the process of ecological change in Indonesia*, Berkeley, California: University of California Press.

Graves, E. (1981) *The Minangkabau Response to Dutch Colonial Rule in the Nineteenth Century*, Ithaca, New York: Cornell University Modern Indonesia Project.

Guyt, H. (1936) *Grondverpanding in Menangkabau*, Bandung: Nix.

Holleman, J.F. (ed.) (1981) *Van Vollenhoven on Indonesian Adat Law: selections from* Het Adatrecht van Nederlandsch-Indië *(Volume I, 1918; Volume II, 1931)*, The Hague: Martinus Nijhoff.

Idrus Hakimi Dt Rajo Panghulu (1978) *Pegangan Penghulu, Bundo Kanduang, dan Pidato Alua Pasambahan Adat di Minangkabau*, Bandung: P.T. Remaja Rosdakarya.

—— (1991) *Rangkaian Mustika Adat Basandi Syarak di Minangkabau*, Bandung: P.T. Remaja Rosdakarya.

Joustra, M. (1923) *Minangkabau, Overzicht van Land, Geschiedenis en Volk*, 's-Gravenhage: Martinus Nijhoff.

Kahin, A. (1985) 'The impact of the Indonesian independence struggle on Minangkabau society', in L.L. Thomas and F. von Benda-Beckmann (eds) *Change and Continuity in Minangkabau: local, regional and historical perspectives on West Sumatra*, Athens, Ohio: Ohio University Center for International Studies, Center for Southeast Asian Studies.

Kahin, A. (1999) *Rebellion to Integration: West Sumatra and the Indonesian polity*, Amsterdam: Amsterdam University Press.

Kahn, J. (1976) 'Tradition, matriliny and change among the Minangkabau of Indonesia', *Bijdragen tot de Taal-, Land- en Volkenkunde*, 132: 64–95.

—— (1980) *Minangkabau Social Formations: Indonesian peasants and the world-economy*, Cambridge: Cambridge University Press.

—— (1993) *Constituting the Minangkabau: peasants, culture and modernity in colonial Indonesia*, Oxford: Berg.

Kato, T. (1982) *Matriliny and Migration: evolving Minangkabau traditions in Indonesia*, Ithaca, New York: Cornell University Press.

—— (1989) 'Different fields, similar locusts: adat communities and the village law of 1979 in Indonesia', *Indonesia*, 47: 89–114.

Korn, V.E. (1941) 'De vrouwelijke mama' in the Minangkabausche familie', *Bijdragen tot de Taal-, Land- en Volkenkunde*, 100: 301–8.

Krier, J. (1994) 'Displacing distinction: political processes in the Minangkabau backcountry', unpublished thesis, Harvard University.

Niessen, N. (1999) *Municipal Government in Indonesia: policy, law and practice of decentralization and urban spatial planning*, Leiden: CNWS.

Noerdin, E. (2002) 'Customary institutions, syariah law and the marginalisation of Indonesian women', in K. Robinson and S. Bessell (eds) *Women in Indonesia: gender, equity and development*, Singapore: ISEAS.

Oki, A. (1977) 'Social change in the West Sumatran village: 1908–1945,' unpublished thesis, Australian National University.

—— (1985) 'Economic constraints, social change, and the Communist uprising in West Sumatra (1926–27): a critical review of B.J.O. Schrieke's West Coast Report', in L.L. Thomas and F. von Benda-Beckmann (eds) *Change and Continuity in Minangkabau: local, regional and historical perspectives on West Sumatra*, Athens, Ohio: University Center for International Studies, Center for Southeast Asian Studies.

Osmet (1991) 'Village reorganisation and irrigation management: a study of two irrigation systems in kecamatan Tilatang Kamang, kabupaten Agam, West Sumatra, Indonesia', unpublished thesis, Ateneo de Manila University.

Reenen, J. van (1996) *Central Pillars of the House: sisters, wives, and mothers in a rural community in Minangkabau, West Sumatra*, Leiden: CNWS.

Satriyo, H. (2003) 'Decentralisation and women in Indonesia: one step back, two steps forward', in E. Aspinall and G. Fealy (eds) *Local Power and Politics in Indonesia: decentralisation and democratisation*, Singapore: ISEAS.

Schrauwers, A. (1999) 'It's not economical: the market roots of a moral economy in highland Sulawesi, Indonesia', in T.M. Li (ed.) *Transforming the Indonesian Uplands: marginality, power and production*, Amsterdam: Harwood Academic.

Schrieke, B. (1955) *Indonesian Sociological Studies*, The Hague: Van Hoeve.

Simbolon, I. (1998) 'Peasant women and access to land: customary law, state law and gender-based ideology', unpublished thesis, Wageningen Agricultural University.

Tiwon, S. (2000) 'Reconstructing boundaries and beyond', in J. Koning, M. Nolten, J. Rodenburg, and R. Saptari (eds) *Women and Households in Indonesia: cultural notions and social practices*, Richmond: Curzon Press.

Verkerk Pistorius, A. (1871) *Studieën over de Inlandsche Huishouding in de Padangsche Bovenlanden*, Zaltbommel: Joh. Noman en Zoon.

Vollenhoven, C. van (1909) *Miskenningen van het Adatrecht*, Leiden: E.J. Brill.

—— (1919) *De Indonesier en Zijn Grond*, Leiden: E.J. Brill.

Westenenk, L.C. (1918) 'De Minang Kabausche nagari', Bandung: Bäumer.

Westkustrapport (1928) 'Rapport van de commissie van onderzoek', Weltevreden: Landsdrukkerij.

Whalley, L.A. (1993) 'Virtuous women, productive citizens: negotiating tradition, Islam and modernity in Minangkabau, Indonesia', unpublished thesis, University of Illinois.

Willinck, G.D. (1909) *Het Rechtsleven bij de Minangkabausche Maleiers*, Leiden: E.J. Brill.

Young, K. (1994) *Islamic Peasants and the State: the 1908 anti-tax rebellion in West Sumatra*, New Haven, Connecticut: Yale Center for International and Area Studies.

10 Culture and rights in ethnic violence

Jamie S. Davidson

In a new book, the anthropologist Ronald Niezen (2003) uncovers the genesis and charts the development of a relatively new political identity known as indigeneity. Indigeneity's growing legitimacy flows from the strengthening of an international movement of indigenous peoples labeled indigenism. For Niezen, at the core of indigenism's resonance lies a common plight of marginalization, destitution, and cultural genocide among an incredibly diverse global population of indigenous peoples. As is to be expected, the book embodies a passionate plea for these peoples everywhere to enjoy the right to self-determination. Unlike other chroniclers of indigenous movements, however, Niezen on occasion tempers his enthusiasm by injecting words of caution into his narrative. For instance, as caveats to the political, moral, and conceptual defence of collective rights to which indigenous movements so desperately cling, the author asks that:

> in situations of moral complexity and ambiguity, how can we resolve questions of rights and responsibilities? How can indigenous peoples be given the justice they deserve when there is confusion, both in general and in specific cases, over their place as victims, responsible actors, and violators of the human rights of their own people or others?
>
> Niezen (2003: 110)

The literature on collective rights is peppered with similar questions, but what distinguishes Niezen's inquiries is twofold. First, his subject is indigenous peoples, who for him, despite overlap, remain a distinct category from the more well-known and popular debate of ethnic or minority collective rights.[1] Second, this latter literature confines similar questions to the paradoxical ways in which an otherwise empowering 'traditional community' can in fact violate rights of individual group members.[2] In contrast, Niezen's ruminations allow us to consider the ways in which, in the name of indigeneity, indigenous peoples have the potential to undermine the rights of *non*-group members, individually or collectively.

Collective violence is one example. Unfortunately, Niezen tackles only incidences of violence committed by indigenous peoples in the context of

rebellions or insurgencies against oppressive centralizing state regimes and its actors. In this way, he fails to offer empirical evidence that measures up to the moral complexity he invokes.[3] The moral standpoints underpinning these insurgencies are explicit: the oppressed versus the oppressors. Missing in his account are those times when indigenous peoples in the name of indigenism inflict violence on other civilians, rather than repressive state actors. In other words, in Mamdani's (2001) memorable phrase, those times 'when victims become killers'. Niezen's silence is not unique to the relevant literature (among others, see Levi and Dean 2003; Gray 1995). It is also important to note that Niezen's cases are narrowly drawn from the American context, where indigenous-civilian riots have been rare (Warren 1998; Yashar 1999); and where the concept of indigenousness, predicated on physical conquest by outsiders, is more distinct than in Asia or Africa. There, the greater complexity of displacement and movements of peoples and the history of liberationist, nationalist movements have complicated the notion of indigenousness (Stavenhagen 1996; Bowen 2000; Kingsbury 1998).

Had Niezen empirically broadened his viewpoint, he would have come across cases of indigenous or non-indigenous violence with complex moral underpinnings and where the indigenousness of the peoples in question was transparent. Consider India – and simply disregard the government's insistence that all one billion of its peoples are 'indigenous' (Niezen 2003: 20–1). In a well-known account, Myron Weiner (1978) pointedly describes the case of Assam in the 1960s to 1970s where its autochthonous peoples, facing increasing demographic pressure and intensifying economic competition, lashed out and brutally attacked Bengali migrants. Niezen might seek recourse in the fact that this violence predates the emergence of indigeneity as a political identity. Not until the mid- or late 1970s did indigenism as a movement coalesce around the international networking of indigenous peoples' representatives, NGOs, and similar lobby groups at such forums as related United Nations working groups (see the introduction, Chapter 1, to this volume). This is a thin but perhaps defensible argument.

This chapter, however, centres on a well-known,[4] morally ambiguous case from Asia which is impossible to argue away by such means. Unlike other violent conflicts in Indonesia in which participants may not think of themselves as indigenous, including those in Aceh or the Moluccas, Dayaks in West Kalimantan do identify themselves as such and have been engaged in periodic riots against migrant Madurese for more than 30 years.[5] Crucially, spokespeople of these Dayak groups actively partake in international indigenous peoples' (and related NGO) movements of the kind described by Niezen. They unambiguously wear the indigeneity label which these movements have produced through their thorough internationalism, networking, strategic use of news media, identity and environmentalist politics and the like.

Rather than offering a detailed account of the violence or establish an argument regarding its causes, this chapter focuses on a set of justifications

for it proffered by the region's most visible and prominent non-governmental organization (NGO), the Institute of Dayakology Research and Development (IDRD).[6] Published in English in IDRD's alternative news magazine, *Kalimantan Review*, the finely articulated article which I will discuss here attempts to rebut a Human Rights Watch report critical of broad-based Dayak participation in and support for the massive 1997 anti-Madurese riots (IDRD 1999). Hundreds – if not thousands – of Madurese perished in these riots. Putting forth a cultural perspective championing the cultural, collective rights of peoples, IDRD's six-page polemic underscores the sacred necessity for Dayaks to uphold *hukum adat* (customary law) traditions, particularly in the face of imminent threats to their community's well being. When these laws are violated – in this case by the killing of a Dayak, exacerbated by the perpetrator's refusal to submit to hukum adat sanctions – the entire community, in order to protect itself, is required by adat (customs) to retaliate collectively and punitively against the perpetrator's community. This chapter critically examines these and other related claims in the context of the rise of a Dayak ethno-political movement, the modern or traditional sensibilities inherent to the movement, and competing conceptions of rights that inform the violence: individually oriented rights of citizenship versus collective, cultural rights, for instance. In particular, to return to Niezen's searching questions noted above, an analytical yet morally charged question driving this chapter is: to what extent is the emergence and early success of this indigenous movement attributable to the anti-migrant riots?

The movement

To situate IDRD's rebuttal in its proper political context, we need to demonstrate, first, how this indigenous peoples' movement overcame substantial obstacles to become a regional political force, and, second, how IDRD positioned itself to present its argument at an international meeting of Indonesian NGOs in 1998. In doing so, it would be beneficial if we explored that mediating, middle ground often missing in accounts of rural politics between the microscopic, daily grind of resistance and the macroscopic but infrequent revolutionary experiences (Fox 1990). Furthermore, this narrative also confirms the supposition that the creation (or at least revitalization) of ethnicity is regularly a phenomenon of an urban elite under competitive conditions (Bates 1983). I will show how this indigenous peoples' movement has constituted the rural and the urban, and has implicated itself in the anti-migrant violence to a point where, at minimum, the issue of moral complexity emphasized above demands attention.

In 1981 in West Kalimantan's provincial capital, Pontianak, a group of urban educators, led by A.R. Mecer, formed a social works foundation named Pancur Kasih (YKSPK). They sought to open a junior high school (St Francis of Assisi) run by Dayaks for Dayaks. Inspired by the ideal of self-sufficiency, Pancur Kasih's leadership maintained that for decades

The Role of *Adat* in the Dayak & Madurese War

The following article contains an excerpt from a paper, which was circulated at the INFID forum held in Bonn, Germany 1998.

It was written as a reaction to a Human Rights Watch report of the same year following the bloodshed that had occurred.

We felt it was important to submit this paper after a recent insurgence of violence in West Kalimantan.

The two events on both occasions where strikingly similar except that in the more recent conflict it was the Moslem Malay who were in conflict with the Madurese.

In regards to the conflict what should be taken into account is an axiom of anthropology; that people perceive the world in widely differing ways and that they also behave on the basis of these perceptions and that these perceptions may represent insuperable barriers to understanding.

The views dealt with are that of the people, the people who were involved. This is important in our effort to find the solution to this repeating and disturbing conflict. We should take into account the perspective of those who directly involved in the conflict in order to understand the holistic context, so that we could produce, if there could be any, a holistic solution. And not a solution from a perspective of 'experts' or 'advocates', which sometimes ungrounded, and far from the everyday reality as felt by the people.



Cause of the Dayak-Maduresse war ini 1997

Kami Orang Dayak
Suka Hidup Damai
Tidak mau Bawa Senjata
Dalam di Pasar2x
18.2.97
Bala[1]

There has been a demand for IDRD to use the INFID conference as a forum to present a Dayak perspective on the recent conflicts in West Kalimantan. That is, the conflicts, which are actually ongoing, between the Dayak and Madurese. The fact of this demand is of itself interesting, or rather a matter for concern, for it implies that there has yet to be heard a Dayak voice on the matter. This is despite some extensive press coverage, usually of a sensationalist nature, and despite a by now well circulated Human Rights Watch (HRW) report entitled *Communal Violence in West Kalimantan*, (hereinafter referred to as HRW report) which incidentally, was NEVER forwarded to any Dayak persons (that IDRD knows of). The HRW report purports to present an "objective" version of events, based on a "flying visit" by a HRW field staff member, with little or no previous experience in Dayak communities or understanding about Dayak culture. This report was published in *Inside Indonesia*[2], along with an article by American academic Michael Dove[3], purporting to explain what the conflict is all about. Once again, there are not any articles or input from the Dayak, and none were ever requested.

The subjectification of the Dayak through discourses external to the Dayak themselves is not a recent phenomenon. Indeed, it is the history of

Figure 10.1 Page of IDRD's rebuttal in the *Kalimantan Review*, 2 (1999)

foreign missionaries or government – although rather poorly – had been responsible for Dayak education. It was time, they felt, to be weaned from this dependency and to show that they were not the backward (*terbelakang*) and lazy (*malas*) natives that the New Order (and others) deemed. Pancur Kasih's mission statement underscores the importance of self-sufficiency:

> 'Dayak' society has the capacity to determine and to manage its political, economic, cultural and social existence in a self-sufficient manner of loving togetherness within the framework of acknowledgement, respect and protection afforded by Pancasila and the 1945 Constitution.[7]

Unbeknownst to Pancur Kasih's leaders, its mission statement and school would sow the seeds of a budding self-empowerment movement that would blossom beyond expectations to which 'backward' Dayaks could aspire.

Strides toward educational independence are one thing; tangible self-sufficiency would also require grounded economic security. Investments by Dayaks in institutions owned and operated by Dayaks, it was hoped, would foster more informed decision making and enhance economic opportunities. Moreover, savings and access to small-scale capital might buttress the shock of those on the front line of New Order development, those whose land was being illegally expropriated by logging concessions, oil palm estates, and transmigration sites. To achieve this end, Pancur Kasih in 1988 opened a credit union that over time has evolved into the cornerstone of this self-determination movement. By 1999, Pancur Kasih had founded another fifteen independent credit unions throughout the province. Its success has spawned similar ventures like the Peoples' Credit Bank (Bank Perkreditan Rakyat) and a Dayak Solidarity Fund (Dana Solidaritas Masyarakat Dayak).

Although Pancur Kasih was spearheading what was becoming a rather remarkable story, at this point, the organization could not be accorded autonomous, oppositional status. The New Order, especially at its peak in the early to mid-1980s, brooked little criticism and 'de-stabilizing' activity. To criticize was to risk the organization's existence and personal harm to its members. Such repression thus engendered caution among its leadership. Conservative leanings also stemmed from the fact that allegiances to Pancur Kasih and the New Order's Golkar party overlapped. Pancur Kasih associates like Arsen Rickson, Rahman Sahudin, and Mecer continued the recent tradition of Dayak elites serving Golkar in largely ceremonial regional (or even national) assemblies.[8] Some preferred to effect social change from within the system and saw little contradiction in supporting both organizations. Others kept a foot on either side to hedge bets against an uncertain future. Or perhaps identification with Pancur Kasih might lessen the stigma of being branded a 'Golkar Dayak' and a New Order lackey. Regardless, this conservative-progressive tension would continue to dog the organization as younger, more critical activists joined and expanded the organization's reach into the countryside.

The more oppositional practices, counter-hegemonic discourses, and transparent transnational linkages Pancur Kasih would foster commenced in the early 1990s with the establishment of Dayak-oriented NGOs. In brief, a series of developments – anti-logging campaigns in neighbouring Sarawak, increasing access to literature critical of large-scale, capitalist development paradigms, participation in international forums on customary law,

and foreign research reports which chronicled the adverse impacts New Order development was having on indigenous communities – led some Dayak university students in Pontianak to form an advocacy NGO for Dayaks.[9] Not surprisingly, Pancur Kasih's older, conservative members baulked at the idea. They believed that such an NGO was exclusionist and would be perilously stamped a 'SARA' organization.[10] Ironically, these were the very same objections that Pancur Kasih's founders had confronted ten years earlier. But with Mecer's backing, the students formed IDRD in May 1991.[11] This new organization would be staffed and run by a younger breed of activists and be considered an autonomous unit. The institutional support afforded by Pancur Kasih, however, would be invaluable.

As one of its founders, Stephanus Djuweng, explained, outsiders – government officials, foreign missionaries and researchers – have always spoken for and on behalf of Dayaks. It was time, he was convinced, for Dayaks to speak for themselves. Solidarity would be forged in defending a particular traditional way of life predicated on customary law and land rights.[12]

At the outset, IDRD's research focused on preserving, documenting, and revitalizing Dayak cultures. One project recorded and published oral stories and histories in local languages. As the organization's visibility and networking capacity grew, especially in step with the burgeoning NGO movement on Java (Eldridge 1995), it secured generous grants from such foreign donors as the Ford Foundation and Cebemo (the Netherlands). IDRD became *the* organization to represent the Dayak voice in the many national and international forums its activists attended.

It slowly became apparent, however, that more grounded activism was called for; getting hands dirty in community organizing now beckoned. To serve this end, two new NGOs, LBBT and SHK, were established.[13] LBBT stressed the legal rights of Dayaks to make customary land claims; SHK concentrated on the design and promotion of alternative economic strategies to counter large (and small) government-backed oil palm estates.

Gradually, a campaign of rural activism, advocacy, and agitation unfolded. Information was disseminated, local dissent facilitated and – when necessary – fomented. Traditional ceremonies were also funded. Yet, in a vast, sparsely populated region with a poor road network, more efficient communication was needed. Activists could not adequately organize a region larger than Java. Hence, informed news reporting was keenly introduced. Mindful that coverage of Dayaks in the government-controlled local paper *Akcaya* was largely absent,[14] IDRD started its own magazine, with an English-language title – *Kalimantan Review* (*KR*) – and distributed it widely to rural communities.[15] Originally designed to publish current Dayak-oriented research, *KR* evolved into an alternative news source on budding Dayak resistance.[16] Its coverage of violent acts will be discussed shortly, but its reporting of small, peaceful protests – such as submitting a letter of complaint to a sub-district head over a local development project – alerted

distant Dayak communities to activities that previously went undetected.[17] It also ran regular features on Pancur Kasih's credit union, the benefits of small-scale rubber cultivation, and the perils of oil palm. All told, *KR* helped to foster, borrowing from Anderson's work on nationalism (1991), a notion of 'simultaneity' among previously disparate groups. With latest information in hand, Dayaks increasingly empathized with each others' concerns and responses, which, in turn, engendered a thickening of reciprocal identification and an increase of co-ordinated action.[18]

More than reporting on cases of resistance, *KR*'s staff and related Pancur Kasih activists were vigorously engaged in the process of protest itself. Their roles ranged from fomenters and facilitators to informal consultants. Critically, the external support that committed urban-based activists afforded local communities galvanized sustained, organized resistance. And as the frequency of violence against state property increased, news about it was disseminated widely.[19] In all, the protests and violence exhibited a budding political re-awakening among these rural Dayak communities.

Indisputably, the situation was in flux and a politicization of the countryside was under way. Pancur Kasih's NGOs tapped into a large consciousness of frustration and grievance against the pervasive cultural, economic, and political marginalization of West Kalimantan's indigenous communities, largely a result of the New Order's ruthless state-building policies and accompanying destabilizing transformations of Indonesia's upland societies (Li 1999). A massive bout of ethnic violence, however, would be required to provide this movement (and its offshoots) with the necessary solidarity, momentum, and environment to make bolder claims on the region's political landscape.

Violence and rebuttal

The intensity and scale of the 1997 violence in West Kalimantan was by far the greatest among a series of anti-Madurese riots that date from 1967. At the time, they were Indonesia's gravest in nearly three decades. The bloodshed spilled beyond their geographical norm of Sambas and northern Pontianak districts to include Dayaks in the province's outer reaches. Estimated death tolls, ranging from 500 to 1700 with Madurese accounting for the lion's share of fatalities, exceeded figures for previous anti-Madurese riots combined.[20] Elsewhere I have argued that the nascent political awakening and consciousness of Dayak communities described above contributed significantly to the riots' unanticipated fury, although it requires emphasis that these activists neither incited nor engineered the violence (Davidson 2003a). For this chapter's purpose, however, two further outcomes of the violence require attention.

The first was the forceful and more explicitly political mobilization following the bloodletting. To be sure, Pancur Kasih activists had planted the movement's seeds. 'Victory' in these massive riots, however, strengthened

the solidarity behind the increasingly politicized ethnic label 'Dayak' to unanticipated degrees. Pervasive fear and tensions following the unrest created opportunities for disparate actors to exploit the situation for political gain. Among these groups were Golkar Dayaks and low-ranking yet ambitious rural civil servants. Of course, Pancur Kasih's activists continued their advocacy and organizing, at times linking up with these actors, at other times keeping their distance. All told, galvanized by multiple parties, these mobilizations gained momentum forcefully as they were well positioned to capitalize on the political turbulence and expanded freedoms following Suharto's resignation in May 1998. At stake were, among other things, greater recognition of customary law, principally to reclaim ancestral lands dispossessed by New Order capital, and visible government posts. In the main, New Order authorities had shut Dayaks out of district head (*bupati*) positions. By mid-1999, the threat this regional movement posed obtained them four out of the then seven available posts. Elected in late 2002, the province's current vice-governor is a Dayak.

A second distinguishing feature of the 1997 violence was its extensive coverage by the international press. I know of no foreign news reports on prior Dayak–Madurese clashes; domestic reporting itself had been scant. This changed dramatically with the 1997 riots. To be expected, the international media exoticized the violence, mesmerized by its cannibalism and head-taking. A sampling of sensationalist headlines includes: 'Descent into darkest Borneo'; 'Cannibal warriors feast on bodies of their victims'; and 'Refugees in terror of the head-hunters'.[21] Critically, however, grounded research conducted by human rights and political scholars, foreign and domestic alike, followed the international headlines. One such controversial report was written by the New York-based organization, Human Rights Watch (hereafter HRW), entitled 'Indonesia: Communal Violence in West Kalimantan' (1997). This exposé became the focus of IDRD's contempt and consequent need to rebut.

Tensions in IDRD's argument below do not stem from the proverbial clash of the traditional and the modern: indigenous peoples defend the sanctity of sacred beliefs (traditional) in written English aimed at an international audience (modern). Such binary dualisms are misguided; they misapprehend the problem at hand, oversimplify and promote unwanted stereotyping on both sides of the ledger.

IDRD is an illustrative example. There is nothing traditional about preserving, cataloguing, classifying, and consciously reviving local cultures, rituals, languages, and practices. Neither is persistent networking with national and international counterparts a traditional activity. Moreover, IDRD occupies an urban-based office, has an (albeit loose) hierarchical management structure, fund-raises among international donors, and pays regular salaries to (mostly) university-educated activist-researchers who depend on computers, internet connections, and fax machines. Furthermore, the organization keenly participates in an international movement of

indigenous peoples that uses a robust discourse of rights to further its struggle. All told, IDRD is thoroughly modern.

The article in question is a prime example. It was first circulated in 1998 at a meeting of a consortium of Indonesian NGOs (INFID) held in Bonn, Germany. The use of English reflects a strategic choice to communicate, explain, and ultimately justify the killings to a decidedly international (read: donor) audience. A shortened version was subsequently published in a regular, print magazine – *KR*'s biannual English language edition – (again) targeted at an international audience. The English language reading audience in West Kalimantan is very scant.[22]

IDRD also trusts in the modern, research enterprise as reflected in its name, Institute of Dayakology Research and Development. Its activist-researchers use current anthropological and/or ethnolinguistic techniques and methodologies, exemplified by the opening passages of the article in question. There is cited a now widely accepted view in current anthropology that 'people perceive the world in widely differing ways and that they also behave on the basis of these perceptions [which] . . . may represent insuperable barriers to understanding' (IDRD 1999: 39). Such possible barriers aside, IDRD nevertheless proceeds to present a clearly reasoned argument to explain (and to defend) the anti-Madurese violence. That the article makes no pretence to objectivity, admitting that its views are 'imbued with so much emotion', is further commensurate with contemporary anthropology that rejects the dispassionate, feigned neutrality of a detached observer who speaks from a putative Archimedean-like point of view (Resaldo 1989).

Tension in IDRD's argument arises not from a typical clash of traditional and modern sensibilities but from the organization's hybrid, selective, and situational responses to modernity (Robbins 2003). That is, IDRD embodies 'a movement that uses traditional symbols and pursues traditional values, but engages in technological and organizational modernization' (Galanter 1972: 60). Complementary to its modern sensibility described above, the organization supports traditional or indigenous law as the means of conflict resolution. Failure to resolve the dispute along these lines triggers a likewise putative traditional response. As one observer of the chthonic legal tradition has remarked, given that 'injury to a member is [deemed] an injury to the group', the crime in question requires 'the attention of the entire community [where] the objective was not to punish, but to restore community' (Glenn 2000: 64). For IDRD, these cultural beliefs precipitated the horrendous anti-Madurese violence. The agency of individual Dayaks is thereby effaced.

Before discussing the rebuttal in detail, a final point demands attention: IDRD's compulsion to rebut the HRW report. To be sure, as the article points out, there had 'yet to be heard a Dayak voice on the matter'. Yet, this statement on the violence was subsequent to the circulation of HRW's report, not the riots. This chronology suggests different sorts of answers. Its reasons, I surmise, are twofold but stem from the same premise, HRW's

critical stance toward broad-based Dayak participation in and support for the terrific bloodshed. First, as an active member of Indonesia's putative progressive civil society – a mixture of pro-democracy, environmental, critical study, and human and indigenous rights groups – IDRD recognizes the impact these reports, especially those from organizations of HRW's visibility, have on the movement. They are read widely and taken seriously. Condemning widespread Dayak support for the violence may possibly damage IDRD's image amongst activist networks and international donors. Thus arose the need to defend its position *vis-à-vis* the riots.

Second, the organization felt the bitter sting of a putative fellow traveller: a human rights organization critical of the New Order. IDRD sees itself in a similar light, namely, in the active pursuit of defending human rights and publicizing their violations. This NGO has used the discourse of rights in its efforts to democratize West Kalimantan society and to defend indigenous communities against New Order-led development projects, as evidenced in many of *KR*'s articles. Yet, suddenly, the harsh spotlight of human rights reporting was reversed, depicting Dayaks in ways antithetical to IDRD's desired stature. In its rebuttal, IDRD expresses its consequent resentment, describing the HRW report as 'fundamentally flawed in many respects'. It continues: '[The report] is badly researched, contains a large number of significant errors, and appears to be self-serving'. Above all, 'reasons for writing [the HRW] report are not clear, other than what we can presume is the noble cause of furthering the practice of human rights in Indonesia' (IDRD 1999: 44). We return to IDRD's particular conception of rights *vis-à-vis* HRW's report and the violence below.

In discussing the rebuttal in question, I leave aside the dispute over facts of the violence. Instead, my focus is on IDRD's discursive attempt to develop what it deems an authentic 'Dayak perspective' on the conflict. Here, hukum adat plays a pivotal role in this construction, as reflected in the article's title, 'The role of *adat* in the Dayak & Madurese war'.

IDRD argues for the exclusivity of an authentic indigenous mindset from which to understand the conflict. This vantage point, it admits, is not readily accessible by outsiders. 'Just how does one explain to outsiders, particularly those of a liberal rationalist background', it ponders:

> about facts that do not fit the usual styles and forms of language, the categories of representation, and the binary oppositions that establish conceptual order? How does one explain about what is beyond time and space, inside and outside, dead and alive, good and evil.
>
> IDRD (1999: 41)

This 'beyond time and space' is, in essence, the spiritual and scared obligations to act according to the precepts of hukum adat. 'The conflict', the article maintains, 'is based on beliefs and practices that are the heart of the Dayak,

central to what it is to be a Dayak'. Accordingly, the violence 'came about as the need for the Dayak to fulfil the obligations and demands of the adat, or indigenous laws' (IDRD 1999: 40–1). Obligations are the following: if blood has been drawn and the assailants reject resolution based upon adat precepts, then the act's relevance is elevated to the group level, for it is believed that the entire community is threatened. Obligations to protect itself compel them to respond collectively. Significantly, punitive retaliation is not evaluated as revenge as such, but as an act of empowerment; the failure to fulfil obligations accorded under hukum adat 'would have resulted in great misfortune being experienced by the whole Dayak community'. In this way, by committing these sins, later to be cast off through ritual, Dayaks are freed 'from the consequences of not carrying out the adat' for they have taken its burden 'on their own shoulders' (IDRD 1999: 44).

Given its self-definition as a 'cultural research organisation' in the article in question, IDRD's comprehensive cultural argument is to be expected. This kind of cultural reasoning, however, has other intrinsic purposes. It resists alternative hypotheses that may, first, make the conflict easy to understand;[23] second, suggest Dayak culpability, whole or partial; third, absolve Madurese of responsibility for the conflict, and, fourth, undermine IDRD's competence and authority to speak on the matter.

Consider mutual hostility as a competing hypothesis. IDRD recognizes its force in Dayak–Madurese relations. It writes: 'the enmity and hatred towards the Madurese is very deep and widespread'; and conversely, 'the Madurese feel enmity towards the Dayak' (IDRD 1999: 43).[24] Nevertheless, IDRD deems enmity derivative rather than causative. Not only would hostility as a primary factor make the conflict easy to understand, but this element also lacks any recognizable, cultural feature that signifies 'Dayak'. Animosity, although relative, is understood or experienced by everyone. Finally, mutual contempt also means joint culpability. This is a position IDRD ideologically, organizationally, and politically cannot countenance and therefore accept.

Similar dynamics are at work with respect to economic envy.[25] For one thing, IDRD lacks the means to sustain an economic argument; it does not possess the requisite data to conclude decisively on the financial wellbeing of the entire Madurese community, let alone those who once resided in Sambas and Pontianak districts. Importantly, like enmity, economic jealousy indicates Dayak culpability, questions the cultural foundations of the violence, while rendering the conflict comprehensible. Likewise reasons imply a political perspective. Cold, calculating intent for the benefit of certain individuals suggests the duping of Dayak raiders who thus would not have acted according to adat precepts. A political argument further exculpates Madurese for the conflict.

Additionally, for IDRD, economic and political reasons prove unsatisfactory because of their rectifiable characteristics. In other words, particular policy changes as embodiments of human agency are capable of improving

both the economic standing and political representation of Dayaks. In contrast, one's culture – be it Madurese or Dayak – cannot be tinkered with, fixed, or altered by policy. Accordingly, this culturalist perspective deems the conflict intractable, the violence unavoidable and inevitable. Given culture's immutability, remedying the situation thus necessitates removing an element from the social mix, that is, keeping Madurese out of areas from which they were banished (IDRD 1999: 40).[26]

A final alternative hypothesis, third party intervention, is one that IDRD finds particularly galling. Outside provocation robs Dayak culture of its valued essence, that is, its capacity to execute the sacred precepts of adat. A mere mention of this possibility is considered an unpardonable affront; HRW is reproached for suggesting it (IDRD 1999: 43). Finally, like other competing explanations, external instigation both makes the conflict understandable and exonerates the Madurese.[27]

IDRD uses a unique cultural mindset from which to explain, to understand, and ultimately to justify the violence. Ruling out alternative hypotheses, IDRD is then left with two cultural tropes from which to choose: headhunting or adat.[28] The former is rejected on several grounds. First are headhunting's ritualistic properties. According to the article, in the tradition of the Kanayatn – the sub-ethnic group most responsible for the shedding of Madurese blood – headhunting 'arose as a consequence of self-defense, mostly concerning territory, and collectively rather than individually'. A capable person-cum-warrior chosen to defend the village is obliged under adat to take an enemy's head; but, importantly, only if 'the head is from a revered and powerful victim' (IDRD 1999: 41). As such, the enemy, despite his adversarial status, is enveloped by the world of adat itself. In contrast, Madurese, as outsiders, are denied the proper respect to deem the killing headhunting.[29]

IDRD also disregards the headhunting hypothesis for other self-serving reasons. One is that this practice may affirm the prevalent stereotype of Dayaks as violent and aggressive people; this is an image this NGO has struggled to counter. More critically, IDRD has no need for the revival of a practice that in the end would little advance or might even hinder its ultimate aim: not the expulsion of the Madurese but the defeat of state-led 'development'. The revitalization of adat, not headhunting, is fundamental to this nascent movement of resistance. Not incidentally, alternative development schemes incorporating indigenous peoples' participation and knowledge have also become the dominant paradigm among international donor agencies (Agrawal and Gibson 1999).

By placing adat at the centre of its effort to resist development, IDRD is forced to portray adat as absolute and immutable, as the singular identifying marker of being 'Dayak'. By doing so, it engages in what some observers of indigenous politics have labeled 'strategic essentialism', an intentional tactic that unduly simplifies diversity to help fashion alliances across boundaries (Levi and Dean 2003: 13–16). Fully aware of the wide diversity of beliefs

and practices subsumed under the ethnic umbrella known as 'Dayak', IDRD nevertheless privileges adat, one that is 'shared across many different groups', as the core of Dayak-ness (1999: 42). Thus, predicated on essentialized customary law, this NGO sees in West Kalimantan a kind of strategic essentialism taking hold, whereby 'an alignment [is] being forged, a solidarity in the demand for land rights and in the will to resist the development that will destroy Dayak culture' (IDRD 1999: 42).

Adat portrayed as timeless and essential, however, denies it some of its significant properties – for instance, its historical qualities. First, such a view disguises adat's colonial origins. Relevant scholarship has shown how the Dutch strove to promote, to codify, and to 'naturalize' customary law among outer island indigenous groups to contain the insurrectionary, mobilizing potential of modernist pan-Islam. Adat itself was thus encouraged to separate non-Muslims from Muslims to perpetuate colonial rule (Ellen 1976; Lev 1985).

Moreover, there have been Dayak elites whose positions on customs and traditions have clashed with that of IDRD. Most notable were those involved in the once vibrant Daya[k] Unity Party (commonly abbreviated PD). This party grew out of attempts by the Dutch after the Second World War to further divide West Kalimantan society along ethnic lines, to co-opt Dayak elites to ensure a peaceful restoration of Dutch authority, and to uplift the indigenes.[30] Imbued with the optimism and promise of an independent and democratic republic, these elites were bent on modernizing their constituency. As beneficiaries of Western education, they wished to cast off tradition in order to compete politically and economically with other societal groups. Motions passed at the party's first provincial congress held in 1950 reflected their disparaging views on the subject. Agricultural rationalization, they surmised, required wet-rice cultivation (*persawahan*) to replace the swidden variety. Thus, small, randomly situated (*cerai-berai*) villages would become larger, orderly (*teratur*) establishments predicated on the individual house (*berumah sendiri*). The longhouse as the nexus of traditional society was deemed obsolete, while the extravagance and unduly weight of ritual entailed thorough reconsideration.[31]

To be sure, the political exigencies under which IDRD and PD coalesced contrasted markedly. The former witnessed the New Order hijack the promise of modernity that the idea of 'Indonesia' once stood for.[32] Economic modernity has meant the extensive dispossession of Dayak lands and concomitant pauperization of its people. Politically, IDRD had yet to experience the freedom to form political parties and to compete in fair elections as PD once had.[33] Under the New Order, the practice of modern, positive law – predicated on impartiality, equality, and neutrality – was a sham. All told, the rosy citizenship ideals of democracy and modernity once held by PD's elite had been replaced by a cynical hardening that sought in ethnic traditions means to defend Dayak society from state-led development and its attendant depredations.

The point emphasized here is that an elite's perception of and belief in adat is not eternally uniform, but varies according to its position amid a broader political context. These are outcomes of complex political processes embedded in asymmetrical relations of power. Thus, given its disillusionment with modernity under the New Order, IDRD's hopeful trust in adat should surprise few. Near the end of the rebuttal, it is noted that 'given the lack of recourse to substantive law or international conventions to support their *rights*, the awareness of *adat* as the most effective means to resist developmental invasion is growing' (IDRD 1999: 44).[34] Tellingly, this quote strongly suggests that, if substantive law or international conventions were able to protect their rights, then this adat movement might not be necessary.

Such a statement, none the less, clearly exhibits tensions in IDRD's argument that arise from its situational and selective approach to modernity. While this research organization wants to use 'culture' against the Madurese, it launches 'rights' against state development.[35] Having already interrogated the former, let us turn to the latter. If IDRD seeks recourse in rights – a fundamentally modern idea (Bobbio 1996) – against state development, why is the notion of rights broached in the quotation above its only mention in the article? Unlike many articles in *KR* that spotlight the need to strengthen a human rights regime in West Kalimantan and throughout Indonesia, why does this essay not provide further elucidation of what these rights might be?[36] And why is the key phrase 'human rights' missing? Unfortunately, however advantageous rights talk *vis-à-vis* the state would be, here IDRD must tread lightly. Having acrimoniously responded to a *human rights* report, how much faith could the organization place in this cause? Given its distancing from human rights, what then is left to resist state development? Not surprisingly, IDRD opts for (threats of) violence. The rebuttal concludes with the following:

> Although there is not yet the case of a collective adat response to development as was seen against the Madurese, given the plans of the Government to take a further 3 million hectares of mostly Dayak land for plantations in West Kalimantan alone, there may be the kind of Dayak movement that cannot wait for future generations.
>
> IDRD (1999: 44)

Besides the notion of rights, IDRD's selective, situational response to modernity contributes other such instructive tensions as the role of IDRD itself in this adat revitalization. On the one hand, as argued above, the organization privileges adat's immutable qualities to present the movement as a true expression of the Dayak people from below. On the other hand, near the end of its rebuttal, it tips its hand. It admits that the

> role of *adat*, in the lives of the Dayak who live in the villages and the bigger cities in West Kalimantan can only be seen to be getting

> stronger . . . and the awareness of *adat* as the most effective means to resist developmental invasion is growing.
>
> IDRD (1999: 44)

This acknowledgement raises several questions. If the role of adat in the lives of Dayaks is growing, does this not suggest that consciousness about adat had waned? Would this in turn contrast with perceptions and beliefs in adat as timeless and absolute? Further, should there not be reasons for this revitalization? If so, do they stem from 'the oppression of the Dayak, threats from development, the political marginalisation and lack of respect for Dayak culture' (IDRD 1999: 42)? Or, alternatively, do they arise from 'victory' in the anti-Madurese violence? Perhaps they are a result of IDRD's catalytic role in the movement? I cannot pretend to have answers to all these questions. It does appear, however, that, as one begins to explore possibilities, IDRD's essentialist view toward adat and, as importantly, its culturalist view toward the anti-Madurese killings become increasingly untenable.

IDRD's unambiguous interest in revitalizing adat brings us to our final point. Sixty per cent (or more) of the provincial population are non-Dayaks,[37] while ever more Dayaks in pursuit of better educational or economic opportunities are moving to urban centres. These areas comprise dense, multi-ethnic networks and neighbourhoods. So, (again) mindful of IDRD's situational response to modernity, we must ask: in this kaleidoscopic social fabric what part do non-Dayaks play in an increasing adat-based regime? For the moment, given this chapter's spotlight on violence, let us concentrate on its victims, the Madurese.

Here, fuller light is shed on the conflict's moral ambiguities introduced earlier in the chapter. The systematic violation of rights of Dayaks, both individually and collectively, has been adequately documented and is undeniable. Accordingly, what Pancur Kasih and its NGOs have achieved is praiseworthy. The movement's dark side, however, is equally evident, as reflected in the statement: 'there is not one Dayak who will say that there was another way' other than slaughtering Madurese (IDRD 1999: 40). Notwithstanding the hyperbole, the point is clear. Where then does this leave the Madurese, the thousands dead or the tens of thousands of internal refugees, left to live in squalor in Pontianak's shelters and face permanent banishment from their homes?[38]

Unfortunately, there is neither a Madurese equivalent of IDRD nor an equivalent Madurese statement, either in Indonesian or in English.[39] Thus arises the difficulty in addressing how Madurese view these developments or how they might respond to IDRD's charges. To help fill this gap, however flawed, I with a team of assistants conducted a survey among refugees to assess their views toward hukum adat.[40] Overall, conclusions meet expectations; reliance on indigenous legal codes is no guarantor of Madurese rights. Sixty-one per cent rejected the notion that non-Dayaks should be held accountable to hukum adat.[41] A surprisingly high percentage (33 per cent),

however, responded inconclusively (*tak tahu*). This further proves the foreignness of hukum adat to the respondents, although 97 per cent of them were West Kalimantan born. Sample statements gathered on the subject include:

> '*Saya tidak tahu apa itu hukum adat, sebab saya tidak pernah diberitahu hukum adat. Tidak pernah diajari*.' (I don't know what adat law is because I've never been told nor instructed.)
>
> '*Merasa dirugikan, dan selama ini saya tidak tahu tentang hukum adat itu sendiri*.' (I feel slighted, and all the while I do not know anything about hukum adat.)
>
> '*Tidak sesuai. Karena kita berpanutan pada hukum Negara*.' (It is not appropriate because we observe state law.)
>
> '*Hukum adat Dayak mestinya orang Dayak. Saya tidak tahu persis tentang hukum adat*.' (Adat law should be for Dayaks. I don't know precisely what adat law is.)
>
> '*Hukum adat terlalu berat. Masih ada hukum positif. Hukum adat sulit dimengerti karena hukum adat it sendiri tidak jelas*.' (Adat law is too penalizing. We still have positive law. Adat law is difficult to understand because adat itself is not clear.)
>
> '*Hukum adat tidak boleh. Karena masih ada hukum Pancasila. Pengertian hukum adat tidak jelas dan cukup membingungkan*.' (Adat law should not be allowed. We still have law based on *Pancasila*. My understanding of adat law is fuzzy and very confused.)
>
> '*Tidak tahu karena selama kami berada di Kalimantan Barat belum pernah ada penjelasan tentang hukum adat itu sendiri*.' (I don't know because since I've been in West Kalimantan what adat law is has never been explained.)

As gleaned from the above statements, confusion swirls about hukum adat, while Madurese seem to place greater trust in state law.[42] Unfortunately, Indonesia's legal system has decayed under the weight of corruption and incompetence. It alone cannot solve the country's social ills nor help close this gap in perceptions on the role of customary law in a plural society. IDRD too recognizes this quandary, noting that Dayaks (or in fact others) have 'no recourse to substantive law' (1999: 44).

Faced with such a situation, Dayaks, and other similarly situated groups across Indonesia, are turning to 'tradition' as a means of protection and conflict resolution. In this way, they are staking a claim to their rights.

IDRD may assume, however wrongly, that as guests in the Dayak homeland Madurese rights need to be circumscribed. We should be reminded, however, of the fact that the majority are West Kalimantan born and, more critically, remain citizens of the Republic of Indonesia. They are entitled to enjoy the rights contained therein. One such right, the right to migrate to seek economic betterment, has been enshrined in the new second amendment to the country's 1945 constitution: 'the right to choose a residence anywhere in Indonesia, the right to leave it and to return to it'. Regrettably, as one legal scholar has pointed out, 'there is no tradition of respect for or enforcement of constitutional rights in Indonesia' (Bell 2001: 33).

Concluding remarks

> the problem [is] how to proceed: a recognition of customary land rights remains essential to the livelihood and well-being of millions of disenfranchised rural citizens. But, in the absence of transparent government, due legal process, and real democratic freedoms from the village level upwards, the unilateral claiming of these rights . . . is victimising migrants who are at least as vulnerable as indigenous peoples, and often more so.
>
> Li (2002: 361)

This statement by Tania Li amply captures the moral ambiguities that many observers of indigenous politics either sidestep or, like Niezen, invoke yet fail to interrogate empirical examples accordingly. Like Li, I too must confess to leaving such dilemmas unresolved. There are no easy answers or solutions.

The Dayak ethno-political movement has changed the meaning of 'Dayak' in West Kalimantan from perennial images of backward and primitive to a politically charged idiom of pride, and even power. Indonesian state authorities have taken heed. Like similar movements throughout the country's outer islands, this revitalization seriously challenges state authority and the ideals from which the idea of 'Indonesia' was once moulded and created. In particular, the foundations upon which modern, democratic citizenship is based – equality, impartiality, neutrality before the law – are under threat. Yet, it is fully acknowledged that this threat is generated from within as much as from without. Crucially, episodes of mass killing result from both ends, tensions emanating from questions of exclusion or inclusion and bankrupt state institutions. The complexities of mass violence can never be reduced to monocausal factors. We cannot deny a recent history of antagonistic relations between communities in question. Large-scale killings do bring, however, these vital dilemmas and moral ambiguities into sharp focus. The extreme politicization of collective rights versus individual rights, exclusion or inclusion, and ethnicity places thousands of lives at risk.

If we take IDRD's word that its ultimate aim rests with defeating state development, how much bloodshed has been tragically wasted in efforts not

clearly connected to such a goal. Aligning along lines other than primordial sentiments, feigning another form of 'strategic essentialism', can potentially generate forces better able to counter unjust state demands on its citizens, to restore dignity, and to secure land rights. IDRD's article brings home the fact that few are heading in this direction. Not an olive branch, this is a rallying-cry to a cause which is likely to produce more violence.

Finally, despite the successful execution of Indonesia's second 'free and fair' national elections in 2004, democratizing the Indonesian state must involve more than just the spoils of electioneering and the rotation of elites in offices whose resonance in the lives of most remains faint. Fostering the downward accountability of the elected and extending full citizenship rights to all throughout the polity is imperative. To achieve these ends, state institutions must be reinvigorated. Start with the police and formal legal system. Not only will this reinspire trust in government – something which has ebbed among Indonesians to alarming degrees – but importantly also it might in turn stimulate faith among non-indigenous peoples toward hukum adat. Indigenous legal regimes will work in a society as plural as Indonesia only in conjunction with and as complementary to substantive law. A trusted formal legal system that inspires confidence will invariably alter the prevalent perception of hukum adat at large as inappropriate and arbitrary. In this way, collective or cultural rights of indigenous peoples need not conflict with the individual-oriented human rights of others, including migrants. Nevertheless, this clash will fester in the absence of proper government institutions to mediate and to navigate the divide fairly, competently, and in a just manner.

Notes

1 For Niezen, critical differences reside in the pervasive marginalization among indigenous peoples and the organizing and networking of innumerable indigenous groups internationally from which indigenism derives its force. This view contrasts with the once prevalent view, presented by Brownlie (1988: 16) who writes that 'the treatment of minorities, and the status of indigenous populations, are the same, and the segregation of topics is an impediment to fruitful work'.

2 As Das poignantly writes: 'in the contests between state, communities, collectivities of different kinds and the individual, we can see the double life of culture: its potential to give radical recognition to the humanity of its subjects and its potential to keep the individual within such tightly defined bounds that the capacity to experiment with one's self which is also a mark of one's humanity, may be severely jeopardized' (Das 1997: 304). This ambivalence is prominent in the collective rights literature; see also Chatterjee (1997) and Harris (1996).

3 Niezen's examples are the Zapatista Rebellion in Chiapas, Mexico; the siege at Wounded Knee, South Dakota, 1973; the 1990 Mohawk standoff at Oka, Quebec; and an indigenous uprising in Guatemala, 1980.

4 Horowitz (2001) mentions the Dayak–Madurese riots of West Kalimantan on page 1 of his latest tome on ethnicity.

5 In West Kalimantan, Dayaks are indisputably indigenous; the only dispute concerns how much indigeneity one affords Muslim Malay communities, largely descendants of Dayaks who converted to Islam and thus shifted ethnic identifications as well. This dilemma is not central to my concern in the present chapter. On the importance of self-definition see Gray (1995) and Tennant (1994: 39).
6 IDRD has since shortened its name to ID (Institute of Dayakology). Since the article in question uses the former, so will I.
7 Since the so-called reform era, as the law requiring all social organizations to claim the Pancasila as their sole ideological founation (*azas tunggal*) has been repealed, Pancur Kasih has deleted references to Pancasila and the 1945 Constitution from its motto. Online. Available: http://<Dayakology.com> (accessed 15 February 2003). The translation above is my own.
8 In the provincial assembly (DPRD), Rickson occupied a Golkar seat in four terms (1982–99) and once sat in the national parliament. At the DPRD, Sahudin was at least a three-time member (1982–97) and Mecer served once (1987–92). On this background see Davidson (2002).
9 For further details on this development see Davidson (2002).
10 SARA is an acronym that stands for *Suku, Agama, Ras dan Antargolongan* (Ethnic, Religious, Race and Inter-group relations). The New Order suppressed public manifestations of SARA in any form, including organizations and discourse.
11 Their initial startup grant came from the Jakarta-based Indonesian Council of Bishops, which for its first few years administered IDRD.
12 Interview, Stephanus Djuweng, Pontianak, 17 July 2001.
13 LBBT stands for *Lembaga Bela Benua Talino* (the Institute for the Defence of the Talino Homeland). SHK stands for *Sistem Hutan Kerakyatan* (Community-Based Forest Management System).
14 Based on my reading, from 1980 to 1990 *Akcaya* published a mere six articles on Dayaks. There were, however, frequent staged photos of 'exotic' Dayaks dressed in traditional costumes, often performing 'traditional' dances.
15 In addition, Pancur Kasih's press began publishing provocative pamphlets and tracts. See Djuweng (1996, 1997) and Florus and Petebang (1999).
16 Early topics concentrated on the preservation of adat ceremonies, customary law, longhouses and oral histories; in other words, 'essences' of Dayakness.
17 Some early cases of this small-scale protest covered in *Kalimantan Review* occurred in Sekadau Hulu (Sanggau district) (April–June 1994: 22–3); in Sanggau Ledo (July–September 1995: 27–30); and in Jelai Hulu (Ketapang district) (October–December 1995: 22–3).
18 McAdam, Tarrow and Tilly would call this development 'scale shift' whereby 'a change in the number and level of coordinated contentious actions lead[s] to broader contention involving a wider range of actors and bridging their claims and identities' (2001: 331).
19 For further details of this unfolding, see Davidson (2002).
20 The recorded death tolls for any single Dayak–Madurese clash, which should be treated with suspicion, had never surpassed 30.
21 *The Economist*, 27 March–2 April 1999; *The Independent*, 22 March 1999; and *The Observer*, 28 March 1999.
22 This article has never appeared in translation in subsequent *KR*s, whereas most of *KR*'s English-language articles are translations of previous articles published in Indonesian.

23 IDRD maintains that the 'need for a "rational" explanation may make it difficult for some to understand the Dayak perspective' (1999: 44).
24 For the moment disregard the question of IDRD's competence to speak on behalf of the entire Madurese (let alone Dayak) community.
25 IDRD cites a short article written by anthropologist Michael Dove, who has conducted field research in West Kalimantan, which purports such an explanation. Bluntly put, IDRD believes Dove's conclusions are 'wrong' (IDRD 1999: 44, note 3).
26 Here arises a complication that cannot be fully elaborated. This article rebuts a HRW report on the 1997 riots that involved little ethnic cleansing. The expulsion of Madurese was an outcome of the violence of 1999, that is, after the HRW report and the 1998 Bonn conference, but before the publication of the *KR* article in question. The article does mention the 1999 riots in passing, but largely takes aim at the 1997 HRW report.
27 IDRD does admit that in the past, third party intervention was instrumental – in particular with respect to the role of the army in Dayak–Chinese clashes of the 1960s. It states that 'this well-known incident began in similar manner, that is, *perceived* disrespect for, and rejection of, Dayak adat with the killing of several Dayak leaders. But it is now acknowledged that this incident was started by the army' (1999: 43, emphasis added). So, it remains possible that something similar can reoccur, that years following the 1997 violence evidence is found concerning a (possible) third party instigator.
28 IDRD might argue that the two are inseparable. But the article itself argues against headhunting. Moreover, although admitting that its argument may appear 'irrational', IDRD does nevertheless purport a reasoned causal argument.
29 Moreover, in 'traditional' headhunting the head is kept and revered to protect the village. Perhaps hyperbolically, IDRD claims that 'not one head of victim was kept' during the 1997 violence (1999: 42).
30 On the PD see Davidson (2003b).
31 These notions are culled from unpublished documents of PD's first party congress held in Sanggau (West Kalimantan), 13–15 July 1950.
32 On the idea of 'Indonesia' being modern see Cribb (1999) and McVey (2003).
33 PD fared well in the 1955 general and 1958 local elections. The party gained the governorship (Oevaang Oeray), four bupati positions and a seat in the national parliament.
34 The emphasis on rights is added; adat is italicized in the original.
35 Not a single sentence with respect to the anti-Madurese violence mentions the notion of rights.
36 We may presume they are the human rights of peoples to act collectively in order to maintain the distinctive group – cultural, linguistic, or otherwise – identity of their community.
37 Add to this Dayaks who might not agree with IDRD's views on the matter. Here, I opt not to use results of the 2000 census because of to unresolved coding issues.
38 Based on a survey I conducted, to be broached below, some 97 per cent of the refugees apparently were born in West Kalimantan.
39 This has been problematic, namely, the lack of reliable district-wide or provincial representation among Madurese. The closest is an elite forum, IKAMRA, which

was principally formed to co-ordinate the payment of hukum adat fines. Its self-interested elite, however, dismally failed the refugees in the camps. Its head, Haji Sulaiman, is a close associate of the former Governor Aspar Aswin and was more concerned with winning contracts to build relocation sites in inhospitable, swampy sites than in genuinely succouring the refugees.

40 The survey explored other issues as well. The organization with which I collaborated was HIMMA (Association of Madurese Students) based in Pontianak. Here I recognize their help in this endeavour (under trying circumstances).

41 The question asked to 113 respondents was: '*Semestinya hukum adat itu diterapkan kepada warga yang non-Dayak*?' (Should customary law be applied to non-Dayaks?).

42 This view is prevalent among elite Madurese too.

References

Agrawal, A. and Gibson, C.C. (1999) 'Enchantment and disenchantment: the role of community in natural resource conservation', *World Development*, 27: 629–49.

Anderson, B. (1991) *Imagined Communities: reflections on the origin and spread of nationalism*, 2nd edn, London: Verso.

Bates, R.H. (1983) 'Modernization, ethnic competition and the rationality of politics in contemporary africa', in D. Rothchild and V.A. Olorunsola (eds) *State Versus Ethnic Claims: African policy dilemmas*, Boulder, Colorado: Westview Press.

Bell, G.F. (2001) 'The new Indonesian laws relating to regional autonomy: good intentions, confusing laws', *Asian-Pacific Law and Policy Journal*, 2(1): 1–44.

Bobbio, N. (1996) *Age of Rights*, Cambridge: Polity Press.

Bowen, J.R. (2000) 'Should we have a universal concept of "indigenous peoples" rights? Ethnicity and essentialism in the twenty-first century', *Anthropology Today*, 16(4): 12–16.

Brownlie, I. (1988) 'The rights of peoples in modern international law', in J. Crawford (ed.) *The Rights of People*, Oxford: Clarendon Press.

Chatterjee, P. (1997) 'Secularism and toleration', in P. Chatterjee, *A Possible India: essays in political criticism*, Delhi: Oxford University Press.

Cribb, R. (1999) 'Nation: making Indonesia', in D.K. Emmerson (ed.) *Indonesia After Suharto: polity, economics, society, transition*, Armonk, New York: M.E. Sharpe.

Das, V. (1997) 'Cultural rights and the definition of the community', in M. Doornbos and S. Kaviraj (eds) *Dynamics of State Formation: India and Europe compared*, New Delhi: Sage Publications.

Davidson, J.S. (2002) 'Violence and politics in West Kalimantan, Indonesia', unpublished thesis, University of Washington.

—— (2003a) 'The politics of violence on an Indonesian periphery', *South East Asia Research*, 11(1): 59–89.

—— (2003b) 'Primitive politics: the rise and fall of the Dayak Unity Party in West Kalimantan, Indonesia', ARI Working Paper 9. Online. Available: <http://www.ari.nus.edu.sg/pub/wps2003.htm#16> (accessed 17 March 2006).

Djuweng, S. (1996) *Manusia Dayak: Orang kecil yang terperangkap modernisasi*, Pontianak: IDRD.

—— (1997) *The Dominant Paradigm and the Cost of Development*, Pontianak: IDRD.
Eldridge, P.J. (1995) *Non-Government Organizations and Democratic Participation in Indonesia*, Kuala Lumpur: Oxford University Press.
Ellen, R. (1976) 'The development of anthropology and colonial policy in the Netherlands: 1800–1960', *Journal of the History of the Behavioural Sciences*, 12: 303–24.
Florus, P. and Petebang, E. (1999) *Panen Bencana: kelapa sawit*, Pontianak: IDRD.
Fox, J. (1990) 'Editor's Introduction', *Journal of Development Studies*, 26(4): 1–18.
Galanter, M. (1972) 'Aborted restoration of indigenous law in India', *Comparative Studies in Society and History*, 14: 53–70.
Glenn, H.P. (2000) *Legal Traditions of the World*: *sustainable diversity in law*, Oxford: Oxford University Press.
Gray, A. (1995) 'The indigenous movement in Asia', in R.H. Barnes, A. Gray, and B. Kingsbury (eds) *Indigenous Peoples of Asia*, Ann Arbor, Michigan: Association of Asian Studies.
Harris, O. (1996) 'Introduction: inside and outside the law', in O. Harris (ed.) *Inside and Outside the Law: anthropological studies of authority and ambiguity*, London: Routledge.
Horowitz, D. (2001) *The Deadly Ethnic Riot*, Berkeley, California: University of California Press.
IDRD (1999) 'The role of *adat* in the Dayak & Madurese War', *Kalimantan Review*, English Edition, 2: 39–44.
Kingsbury, B. (1998) '"Indigenous peoples" in international law: a constructivist approach to the Asian controversy', *American Journal of International Law*, 92: 414–57.
Lev, D. (1985) 'Colonial law and the genesis of the Indonesian state', *Indonesia*, 40: 57–74.
Levi, J.M. and Dean, B. (2003) 'Introduction', in J.M. Levi and B. Dean (eds) *At the Risk of Being Heard: identity, indigenous rights and postcolonial state*, Ann Arbor, Michigan: University of Michigan Press.
Li, T.M. (ed.) (1999) *Transforming the Indonesian uplands*, Amsterdam: Harwood Academic.
—— (2002) 'Ethnic cleansing, recursive knowledge, and the dilemmas of sedentarism', *International Social Science Journal*, 173: 361–71.
McAdam, D., Tarrow, S., and Tilly, C. (2001) *Dynamics of Contention*, Cambridge: Cambridge University Press.
McVey, R. (2003) 'Nation versus state in Indonesia', in D. Kingsbury and H. Aveling (eds) *Autonomy and Disintegration in Indonesia*, London: RoutledgeCurzon.
Mamdani, M. (2001) *When Victims Become Killers: colonialism, nativism and the genocide in Rwanda*, Princeton, New Jersey: Princeton University Press.
Niezen, R. (2003) *The Origins of Indigenism: human rights and the politics of identity*, Berkeley, California: University of California Press.
Resaldo, R. (1989) *Culture and Truth: the remaking of social analysis*, Boston, Massachusetts: Beacon Press.
Robbins, S. (2003) 'Whose modernity? Indigenous modernities and land claims after apartheid', *Development and Change*, 34: 265–83.
Stavenhagen, R. (1996) 'Indigenous rights: some conceptual problems', in E. Jelin and E. Hershberg (eds) *Constructing Democracy: human rights, citizenship, and society in Latin America*, Boulder, Colorado: Westview Press.

Tennant, C. (1994) 'Indigenous peoples, international institutions, and the international legal literature from 1945–1993', *Human Rights Quarterly*, 16: 1–57.
Warren, K.B. (1998) *Indigenous Movements and Their Critics: pan-Maya activism in Guatemala*, Princeton, New Jersey: Princeton University Press.
Weiner, M. (1978) *Sons of the Soil: migration and ethnic conflict in India*, Princeton, New Jersey: Princeton University Press.
Yashar, D. (1999) 'Democracy, indigenous movements, and the postliberal challenge in Latin America', *World Politics*, 52: 76–104.

11 Adat revivalism in western Flores

Culture, religion, and land[1]

Maribeth Erb

There are many understandings of the word *adat* (custom) in Indonesia and from this it can be suggested that there are also many understandings of its revival. This chapter explores three different ways that adat has been revived in Manggarai district[2] in western Flores at different times over the past several decades. These different revivals have to do with different influences that Manggaraians have been reacting to at various time periods. What is called 'adat' – customary beliefs, practices, and social institutions – has been responding, in Manggarai, to external influences for many centuries now (Erb 1999; Lawang 1989), but the idea of 'loss' of traditional lifeways, and an idea that a 'revival' is a positive, even necessary thing, is something more recent. This is especially so since for a considerable period of time adat was seen as something relatively negative. This was true in the context of religion, where it was considered, in earlier decades, by foreign missionaries, as an obstacle to being a 'true Catholic', and in the context of national development, during the New Order, when adat was considered to be obstructive to a modern, profit-oriented, and efficient outlook on life. Hence I am arguing that the recent revival of adat has to be explained against a fairly negative orientation towards 'traditional' ways of life in most of the twentieth century in Flores, and that this revival, therefore, needs, to some extent, to be traced chronologically. I attempt to do that by dividing 'adat revival' into roughly three (albeit overlapping) types and consequently into three roughly distinct time periods when these revivals were initiated.

The first type of revival is that of material culture and display. This is associated with a way of understanding adat as 'culture' or 'art' to be presented or displayed, especially on important occasions (such as national holidays, visits of VIPs) or for tourists. This revival has been taking place against the background of a long-term loss of material culture, starting in the Dutch colonial era and proceeding through the national era, and the modernizing of material culture of various kinds as well as the standardizing of ways of displaying 'culture as art' (Acciaioli 1985; Picard 1997). I will refer to this as the 'museumization' or 'showcasing' type of adat revival. The second type of revival concerns reviving ritual or religious ceremonies,

partially for display and also partially to emphasize a unique, modern, regional or cultural identity, and hence related to the first type of revival, but also partially because of issues of belief and a more specifically religious sensibility. This revival has been against a background of long-term missionization on Flores, in which the religious, ritual practices of adat were often forbidden, to a greater or lesser extent (see also Prior 1988). The third type of revival involves the institutions of adat; this has to do with political authority, and quite importantly with control over land. This revival has occurred against the background of the New Order restructuring of political divisions and land control which left adat institutions increasingly powerless to deal with the use of land, and the conflicts that emerged over land because of changing ways of using it and valuing it.

These are all important and major issues in their own right, and deserve extensive treatment (some of which I have given elsewhere). I will attempt here to review briefly these different revivals to show what about this is peculiar to the Manggaraian situation and how there has been an intensification of all three of these aspects of revival since the end of the New Order. I argue that adat as museum display has emerged more strongly since the late 1980s and early 1990s with the greater number of tourist visits to Manggarai (even those areas not visited by tourists have still been influenced by this type of adat revival). The 'religious' type of adat revival seems to have received a major impetus from the notion of *reformasi* (reform), which has been interpreted in terms of not only political institutions but also religious ones. There has emerged recently in Manggarai a fairly widespread sentiment that the church needs a 'reformation', although this has been actualized in different ways among different groups of people. Urban intellectuals seem to be fairly outspoken in their criticism of the church, whereas quite a number of village and town people, both educated and not, have been, in a quiet manner, returning to blood sacrifice, which at one time had all but disappeared in many areas of Manggarai (see also Erb 2003a, 2003b). Finally the institutional revival of adat has been primarily influenced by the implementation of the new regional autonomy laws in 2001, since which some village people, primarily at the instigation of local non-governmental organizations (NGOs), have been experimenting with reforming community-level institutions to something akin to the traditional social structure (see Erb, Beni, and Anggal (2005), and more generally Erb, Sulistiyanto, and Faucher (2005)). A particular twist, however, has been added to this because of the 1999–2004 local political regime that took it upon itself to 'clean-up' the boundaries of state forest land, and forcibly remove people and their crops from areas considered to fall within these boundaries. Several activist groups defended local farmers in the name of 'adat communities' and sought national-level assistance in their fight against the heavy-handedness of the regional government. This consequently thrust Manggaraian villagers' plight into national attention, and resulted in their alliance with adat communities nationally and indigenous peoples inter-

nationally. These struggles are still ongoing, and I only briefly touch on them here. I foresee that this could have a major impact on the way that Manggaraian people view adat in the future. The chronology of the three different aspects of adat revival, then, and the contexts in which they are grounded, will be dealt with one by one in the pages that follow.

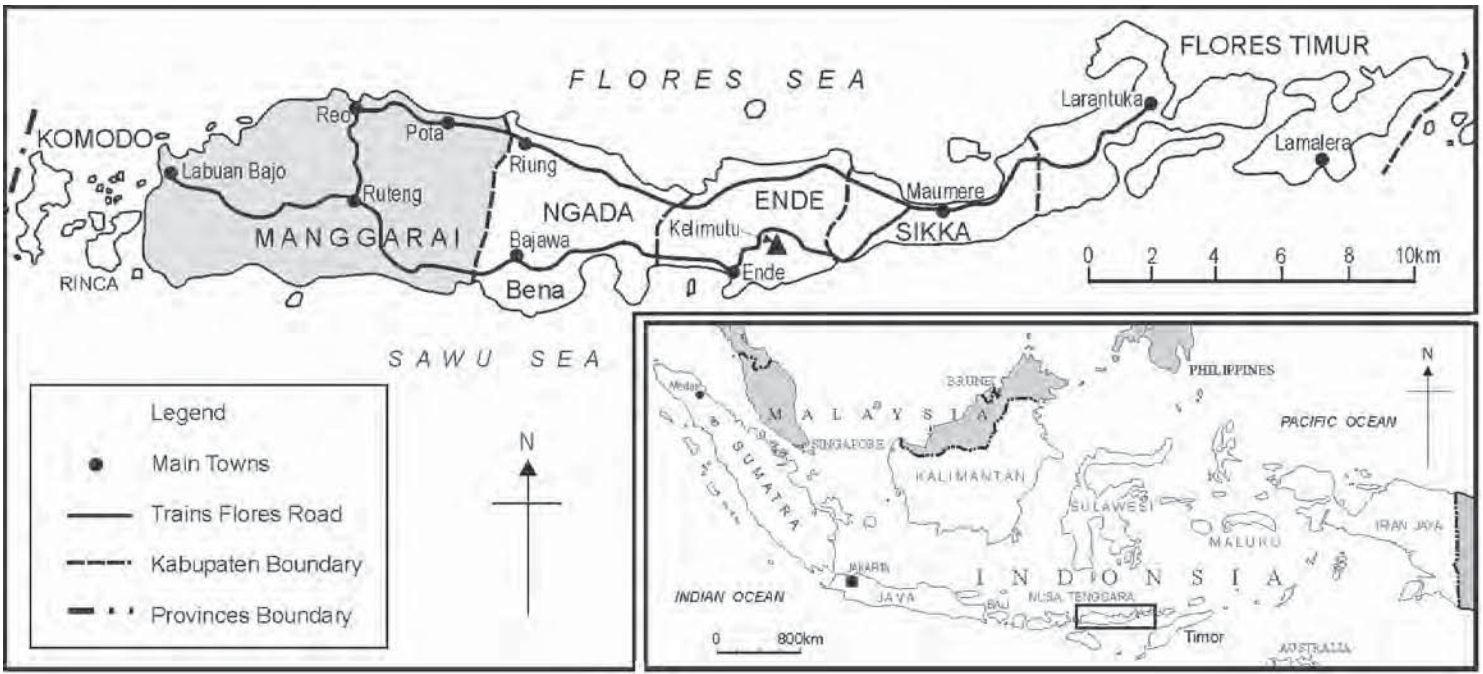
Cultural identity: houses and displays

> In the past we had no interest in our culture, in our heritage; now only after the elders have died do we realize what we have lost, and we regret that we didn't pay more attention before.
>
> Ossi Manti ('cultural studio' manager), Ruteng, July 1999

Since the early 1990s there has been an increased interest in rebuilding traditional adat houses in Manggarai. In 1992, I became involved in the project to rebuild the main ritual house of Todo village in southern Manggarai (Erb 1997, 1999). This village was the origin village of Alexander Baruk, the man who was selected to be 'king' of Manggarai during the Dutch colonial period (see Erb 1999; Lawang 1989). When queried on why they were keen at that moment to rebuild their main adat house, since the original one built in the seventeenth century had fallen into disrepair and been dismantled in the 1960s, one answer given was because of tourism. Since the late 1980s Manggarai had been experiencing a modest but sharp increase in tourist visits (coincident with a worldwide trend of 'new tourism' to the Third World; see Mowford and Munt 2003), and a few of these visitors had been making their way to the (at that time quite isolated) village of Todo.[3]

On my way to Flores to assist in this project, I visited Robert Lawang, a Manggaraian sociologist at the University of Indonesia in Jakarta. When I told him about the plans he was bemused. 'What could this house possibly be?' he queried. Since much of social and cultural life in Manggaraian villages had changed over the decades of colonialism and nation-building, this educated Manggaraian could not envision what role a traditional house could play in the contemporary world. 'Would it be a museum?' he wondered.

In traditional Manggaraian ideas of 'place' the village and the main house or 'drum house' (*mbaru gendang*) could not be separated from the land (*lingko*) which was worked by the villagers. A Manggaraian expression vocalized this interconnectedness: '*gendangn one, lingko pe'ang*' – 'the drums on the inside, the fields (*lingko*) on the outside'. This expression is often used to express what people see as the traditional relationship among the land, the villagers, and the spirits. The drums are those located within the drum or adat house, which is the house where the village land leader lives. The drums also represent the community that works together, both living and dead, and are the means by which the world of the spirits is contacted. The adat house where they were kept was round in shape, and agricultural land was also



Map 11.1 Flores, with the original Manggarai district shaded

opened in round shaped fields called *lingko*. The identical round shape of house and field were said to represent their integral unity, and both were also divided into pie-shaped sections, from the centre, which in the case of the lingko fields is often said to look like a spider's web. In the centre of these circular divisions of the house and lingko fields are places to contact the spiritual world 'mother below and father above' (*ende awa agu ema eta*), the original Manggaraian conception of the creator deity. This supernatural entity is represented with phallic-shaped poles and womb-shaped circles that symbolize the unity of male and female. The replication of these symbols of fertility, fecundity, and sexuality can also be found in the altar of the village, called *compang*, which has a tree and a ring of rocks to represent the sacred unity.

Separate family units within the house would receive a pie-section of the field to work in the village-based land system every year. Although villages were traditionally clan-based, individuals who lived in a village would get access to land, whether they were related or not. Each village had under its tenure many lingko, most of which were left fallow at any given time in the traditional slash-and-burn agricultural system. Although the Dutch colonial administration, and some recent authors (Lawang 1999; Moeliono 2000) considered the traditional system potentially to be environmentally destructive, claiming that all forest land would eventually have been opened up and used if the Dutch had not set aside protected land, recent examinations of the traditional swidden system in Manggarai suggest that indigenously there were ideas of 'conservation' that were expressed through protected, forbidden forest lands, where various spirits were said to reside (for example, the Undana research report cited in Prior 2003).

Changes in village layouts were instigated by the Dutch colonial administration in the 1920s because traditional houses were considered unhygienic (Nooteboom 1939; Erb 1999), and in land usage in the 1930s, with the introduction of wet rice and cash crops (Lawang 1989; Erb 1999). Subsequently various policies during the New Order, which encouraged dividing the land into individually owned plots and moving villages to government-constructed roads, further eroded village organization and land tenure systems. The traditional unity of the house, and the land, therefore, plus the authority of the drums and the land leader who held them, became very tenuous. For this reason, the rebuilding of the Todo adat house puzzled Robert Lawang, who knew that, to a great extent, what the house represented no longer existed. His query about the house being a 'museum', however, was also based on a recognition that during the course of the New Order many policies had been instituted to encourage viewing adat as 'art' and 'display'.

In the early New Order, displays of Manggaraian culture were regularly organized by the local government during National Day festivities. An early district head (*bupati*), Fransiskus Lega (1967–78), had been a great lover of 'culture', and had arranged cultural competitions and displays, with of course nation-building purposes as well. At the same time that these displays

created an idea of 'Manggaraian culture', they also created an idea of 'regional cultures', and a sense of being a part of Indonesia (Acciaioli 1985; Kipp 1993; Pemberton 1994; Picard 1997).[4] Only a few people at the time had the conceptual tools available to 'think' Manggaraian culture. By bringing people from the villages to the capital, Lega went a long way towards spreading the idea of '*kebudayaan Manggarai*' (Manggaraian culture) as a relatively unified and standardized product.

The Indonesian motto 'unity in diversity', for example, was put into practice in Manggarai in National Day competitions. All competitors were judged on one common entry, what was considered a 'pan-Manggaraian' dance or song, and one entry from their own unique village repertoire. In this way certain cultural activities became characterized as typical of all of Manggarai, while others were recognized as unique and special to one area. Those songs or dances that were 'Manggaraian' may have been performed differently in different villages, but within the context of these annual cultural competitions in the capital, the government recognized one standardized 'Manggaraian' way of doing them. It was at this time and through this means that *caci*, the Manggaraian whip game (see below), was uplifted to a symbol of pan-Manggaraian identity and attempts were made to standardize the way that it was played.

This redefining and reshaping of culture and adat is, therefore, associated closely with nationalism and the New Order formation of national and regional cultures in Indonesia. But as has been tellingly written about by several authors, New Order politics of culture had a lot to do with a particular 'touristic' view of culture (Acciaioli 1985; Picard 1997; Adams 1997). As Picard (1995, 1997) has argued, the process of forming Balinese 'identity' cannot be understood apart from the 'touristification' of Bali. 'Balinese culture itself', he suggests, is 'a cultural artefact' (1997: 185). Both nation-building and tourism are important factors for creating a sense of self-conscious awareness of culture (Acciaioli 1985; Picard and Wood 1997). Tourism, I suggest, is also an important impetus in shaping an idea of culture as 'information'. 'Culture' in the modern world increasingly has become one piece of information that the global citizen looks for as a tourist. The more 'cultures' they know, the more status they accrue as informed persons. In other words, looking for 'culture' is one important component of looking for 'information'. Post-colonial states have catered to this need on the part of the tourist to find information by opening up their borders, and displaying culture in a particular way. Cultural theme parks, such as Taman Mini (Hitchcock 1997; Pemberton 1994; Kipp 1993: 108–14), Sulawesi Mini (Adams 1997), and others found elsewhere in the world (Bruner 2001), attest to this particular way of displaying traditional life as artefacts and displays, hence as a 'showcasing' of culture (Kipp 1993: 108). Material objects become readily identified with a particular group for the edification of the tourists, be they domestic or foreign, who want to consume these items as information. They are displayed precisely as if they were in a museum.

In the past the secrecy of certain adat knowledge had to do with the power that it could give the individual who possessed it. Now, however, information, instead of being something to be guarded closely as a source of power, is seen as something to be given away, potentially for money. This change has had a radical affect on the view that Manggaraians have about adat, and is partially responsible for leading to its revival. Also, looking at culture as a 'display' and as a 'showcase' has a definite impact on the way that people who are being 'observed' view their own culture as something to be 'understood', as something rife with symbols and meaning. I have found this to be true in the way people talk about the meanings of houses, and their relationship with lingko, and the way they talk about caci, Manggaraian whip games.

Apart from the 'drum house', a very visible symbol of Manggaraian identity, caci, is the 'object' which is seen as most indicative of Manggaraian 'identity'. Traditionally caci was played at the New Year's ritual, major agricultural rituals, and final-stage marriage rituals; all these rituals were accompanied by the sacrifice of a large animal (horse or buffalo). These whip games are a great diversion of almost all Manggaraian males, even if they do not play. It is seen as a way of proving their prowess and bravery, their sexual virility and attractiveness to women. Men compete, one against the other, each in turn holding a buffalo hide shield and rattan sticks to protect themselves against their opponent's leather whip. A hit on the face, or a serious wound, is often interpreted as a consequence of some inappropriate behaviour on the part of the player. Being hit, however, is not a sign



Figure 11.1 Playing caci for tourists, Ruteng, Flores, 2004

of losing, as many men will be hit in a day's competition. It is where one is hit that determines whether one is considered a 'winner' or a 'loser'. Some say being hit on the back is good, a sign of a good harvest in the year to come. So blood sacrifice, which underscores traditional Manggaraian religious ideas, is also the sacrifice of human blood. Playing caci therefore underscores the Manggaraian ideology of sacrifice that must be done to achieve fertility and prosperity (Erb 1994, 1996).

Caci has become an important part of a display of Manggaraian culture that is put on for important national events, or for tourists, by 'cultural studios' or 'art groups'. These were institutionalized during the New Order as a means of 'preserving' culture, because of cultural loss. In the 1980s and 1990s local cultural competitions became increasingly the domain of 'cultural studios', groups that specialized in performing culture, instead of villages as they had been in the 1960s and 1970s. 'Culture' became something that was no longer associated with village life, but instead was the province of 'professionals'. At the same time these groups began to perform not just for art festivals but also for the increasing numbers of tourists that were visiting Manggarai in the 1990s. At this time, when the perception that traditional culture was disappearing had increased, and with the institutionalization of special groups to preserve it, certain people were emerging as art and culture 'specialists'.

Two of these 'specialists', Josep Ngedut and his wife Ossi Manti, run a *sanggar budaya* (cultural studio), named Lawe Lenggang, located in Ruteng.



Figure 11.2 Cultural studio head receiving tourists in an adat ceremony, 2002 (photograph by Anita Verhoeven)

A highly educated and intelligent couple, they are very keen to uncover all of the symbolic meanings of traditional Manggaraian practices. They collect 'antique' Manggaraian objects, some of which they have been offered a great deal of money for by tourists or art collectors but have refused to sell. Learning about and presenting Manggaraian culture is clearly a passion for this couple. Ossi expressed great regret that many of the elders, who knew and could truly explain the culture of the Manggaraian people, had died. The epitome of a newly acquired Manggaraian self-consciousness about 'culture', she lamented; 'Now only after the elders have died do we realize what we have lost, and regret that we didn't pay more attention before'.

This nostalgia about culture and adat on the part of a growing number of Manggaraian people is coupled at the same time with a highly self-conscious elaboration of meaning, and the identification of certain things, houses, lingko and particularly caci, as essential, intimate aspects of being Manggaraian. On a number of occasions I have been confronted by people expounding about 'meaning', especially in the case of caci. At one New Year's ritual I attended, one player had this to say about caci:

> Caci is the communication between God and human beings. *Ca* means one, *ci* means to test. So God tests the players, one against one to see whether they are in the wrong or not. One sign of this testing is the whip, which symbolizes a flash of lightning. Lightning is the judgement from God. But lightning also connects the earth and sky. Caci is symbolic of God, the unity of mother earth and father sky. The shield held in the right hand is a symbol of the womb, of mother earth. The bundle of entwined sticks held in the left hand [to also shield the defender] is a symbol of the sky. The whip as lightning connects the two.
>
> Caci player, Tukeq village, September 2000

I was amazed at this kind of explanation, which I had never encountered in earlier years when I was indeed more avidly looking for people to explain Manggaraian culture. This explanation was not the only one of its kind, however. Explanations of caci have become abundant, of its meaning, of its symbolism, of its integral role in Manggaraian culture. On National Day in 2000, at the annual, two-day caci, the players heard an official give a long speech on the meaning of caci, how it represents solidarity, brotherhood, fairness, justice. Caci has become Manggarai's face to the outside world, be it other Indonesians or tourists and hence people have learned to talk about it, to see it as something that others need to be informed about. Caci is an important 'object' of Manggaraian 'culture' and a notable face of the adat revival that has been stimulated by an information revolution, tourism, and the search for identity that has been inspired by nationalism.

One further thing requires elaboration before turning to the religiously related adat revival. Robert Lawang's concern about adat objects being

revived with no institutional basis resonates with his comment in a later book about the oft-cited meaning of lingko as 'spiders' webs', as 'a serious misunderstanding with fatal consequences' (1999: 40). When adat gets reduced to objects of display, objects to be discussed symbolically, but not institutionally relevant, this opens up a danger for the Manggaraian villager. I interpret his concern as related to this objectification of aspects of adat and a displacement of the underlying meaning. Lingko, as spider's-web-shaped fields, are often pointed out to tourists, but the fields they see are no longer associated with indigenous land tenure. Instead, they are individually owned. However land conflict, because of clashes between traditional concepts of land tenure and newer capitalist ideas of land value, are increasingly widespread in Manggarai (see below). So when people interpret the substance of the traditional land system as just an interesting object for the 'tourist gaze' (Urry 1990), this lays the ground for belittling indigenous meanings of land and local people's real needs and real dependency on land – socially, economically, and spiritually. This point, as it relates to adat revival, will be discussed in a later section.

'True Catholics': adat revival and Catholicism

> The Florenese live on an island where 'even the trees, rocks and birds are Catholic'.
>
> Webb (1990: 1)

> I'm a true Catholic; whether I pray or attend mass or not is irrelevant. I was born a Catholic. Manggaraian people are original Catholics; we are the real thing.
>
> Manggaraian intellectual, Ruteng, 2001

In the present era, in which 'identity' of various kinds is important for carving out a place for oneself, adat has become a useful vehicle for doing this. One aspect of adat that is also very visible and interesting for tourists is ritual sacrifice. A number of tourists have expressed their considerable pleasure at being able to attend an animal sacrifice, even if it is a very simple ceremony. In the late 1990s it at first surprised me when it seemed that animal sacrifice was being performed everywhere, whereas I remembered that it had been very difficult, back in the early 1980s, to find 'traditional' ritual events. At that time ritual sacrifice was supposed to be a matter of the past, forbidden by the church, and frowned on by the state. It had taken a concentrated effort to find villages in eastern Manggarai where ritual sacrifices were still being practised. There was a strong sense at the time that those renegades, who still practised ritual sacrifice and acted in a specifically anti-Catholic manner, were a dying breed. After decades of the local people being coached in what was permissible and not by the Catholic missionaries, adat had become something which was 'custom', 'culture' – that is actions

that were meant to forge social ties but not to represent religious belief. At that time most interesting to me was how different village areas had attempted to come to terms with adapting their traditional rituals to Catholicism (Erb 1987). In the 1980s, ritual sacrifices were few. If an animal was killed, it was done for food, to share in the sociality of the occasion, but rarely as a sacrifice – that is, as a means of communication with the supernatural (see Erb 1996).

Things look very different in Manggarai now. In post-New Order, reformasi Indonesia, even the casual passer-by finds it fairly easy to attend a ritual complete with multiple blood sacrifices, so difficult to find in the earlier decades. In fact now it is a rather commonplace thing to see major ritual events with both blood sacrifice and the attendance of priests, even on occasion the bishop. At the same time, in Manggarai itself, it is clear that people who are not even 'practising' Catholics are claiming Catholic identity as an 'essential', intrinsic part of who they are.

It is necessary therefore to look at two interrelated issues in this question of 'adat revival' and its relationship to Catholicism in Manggarai. The first is the present political situation. Reformasi has meant to Manggaraians not just the possibility of political or economic change, but change on a religious level as well. When asked in 2000 why chicken sacrifices had started again, people responded, 'because of reformasi'. Reformasi, therefore, has a specific element of fighting against not just what was seen as an oppressive government that had constricted and shaped Manggaraian life in a particular way, but also against similarly constraining elements of church dogma. The second important issue, however, is that of the continuing relationship of Manggaraians with the church. This brings up the question of Manggaraian 'identity' and how it has taken on a particular shape over the decades, resulting at the present moment in something that includes being a Catholic as much as it includes practising certain types of Manggaraian cultural or adat tradition (see Erb 2003b for a more extended look at these issues).

Catholicism in Flores has old roots, but only in the eastern part of the island, brought under early Portuguese colonial influence by Dominican missionaries (Prior 1988: 6–11). In the mid-nineteenth century the Portuguese and Dutch signed a treaty whereby the Portuguese gave up all claim to Flores and West Timor (Prior 1988: 17), although the Dutch agreed to send only Catholic missionaries to Flores (Orin Bao 1969: 231–2). Initially the Dutch administration refused to let the Catholic Church enter 'un-pacified' areas, or to be involved in education. In the early twentieth century the introduction of the 'ethical policy' opened up the opportunity for the church to build and run schools and other facilities. At the same time, the 'pacification' of the rest of Flores in 1908 meant that the church could expand into various parts of the interior (Prior 1988: 19). Earlier missionary orders started to withdraw from Indonesia, and the islands of East Nusa Tenggara fell to the newer missionary order of the Society of the Divine Word (SVD –

Societas Verbi Divini) (Prior 1988: 20). Divine Word missionaries were the first to set up mission posts in western Flores.

The history of western Flores differs considerably from that of the east. Never visited or controlled by the Portuguese, western Flores for centuries had fallen under the alternating control of the kingdoms of Goa on Celebes (now Sulawesi) and Bima on Sumbawa, which both became Muslim in the early seventeenth century. In the 1667 Treaty of Bongaya the Dutch recognized Bimanese control over Manggarai, but Islam did not penetrate deeply into the interior (Coolhaas 1942: 163; Lawang 1989: 137; Erb 1999: 85). In the early twentieth century Dutch troops entered Flores, but left the Manggarai kingship in the hands of the Sultan of Bima's family. SVD missionaries, who started systematically opening mission posts in Manggarai from 1920 (Propinsi SVD Ruteng 1988: 6), started to instigate protests against Muslim rule. Eventually in 1928 the Dutch allowed the Manggaraians their own king, a mission-educated man from the prominent family of Todo (Lawang 1989: 199–206). A great victory for the church, this manoeuvre finally marked Flores as a distinctly Catholic island.

During the Second World War, the Japanese recognized the church as an instrument of regional stability, and brought two Japanese bishops to Flores and encouraged the growth of the indigenous church (Prior 1988: 22). After the war, the Dutch returned unopposed to Flores, where the church supported the Dutch-led creation of federated states because of the fear that a single, unitary state would be dominated by Muslims and limit religious autonomy (Prior 1988: 23). However, with the ousting of the Dutch and the installation of a multi-religious state, the church on Flores changed its position, and found that independence opened up great freedom for missionary activity to the extent that Prior comments that the feared '77% Muslim majority [in the newly independent nation-state] has been more liberal than the "Christian" colonizers ever were' (Prior 1988: 243).[5] It became possible for the SVD missionaries to push ahead with their main objective, that is, to baptize the whole population of Flores. With the help of dedicated catechetical teachers (called *guru agama*) and schoolteachers, the church nearly reached its goal in a short period of time. By the 1980s Flores was some 90 per cent Catholic (Prior 1988: 24).

Prior, however**,** is frank in his assessment of the missionary activity of the early church in Flores. The Vatican I church held the idea of the church as a *societas perfecta*, a perfect society that existed above and beyond any given cultural or social group existing in the world (Prior 1988: 174). With this attitude there was little compromise with different cultural norms that appeared to oppose the church's ideals. The early church in Flores expected the converts to accept Christianity as a 'package deal', 'to be accepted or rejected as it [was] presented' (Hillman 1970: 26, cited in Prior 1988: 26). Prior shows how this attitude meant an inflexible attitude towards marriage customs in particular (see also Erb 1991). Interestingly the church strategy

of baptizing young children, at birth or at school, and in many respects ignoring the 'pagan' elders, who were seen to be in essence unchangeable, did not further the goal of planting an indigenous church. This is because, as Prior (1988: 24) points out, these young people were still brought up within the ideologies and ethical practices of their villages. Hence the world of the church and the world of the villages for a long time remained overlapping, but distinct (Prior 1988: 175–82).

The Vatican II Council (1962–5), which re-evaluated the Catholic Church's stand on many issues, set out to create a different relationship between church and community from that set out in Vatican I (1869). In the Vatican I constitution the 'church' was conceived of as the one means of salvation; the Vatican II fundamentally reconceived the relationship between the church and salvation, and gave primacy to 'the people of God' (believers), over the structure of the church itself (Prior 1988: 177–9). Theoretically this meant that the church was to work more at adapting itself locally to merge with the customs of village life, a process termed 'inculturation'.[6] This attitude, however, was slow in coming. Some of the long-time, foreign missionary priests were sympathetic to indigenous ritual and custom; others were not. A generation of new Florenese priests were educated to be sensitive to cultural concerns; at the same time they had been removed from village life at a very early age (seminary education begins at primary level), so it became a question of individual interest and preference whether they became interested in furthering the cause of 'inculturation'.

Western Flores had its own unique missionary in the person of Monsignor Wilhelmus van Bekkum, a Dutch priest who was ordained the first Bishop of Manggarai in 1951 and a supporter of something like 'inculturation' well before the Vatican II Council. He gained fame in Flores and elsewhere for his 'buffalo mass' (*misa kerbau*), a total fusion between the sacrifice of a buffalo, done at important Manggaraian rituals, and the celebration of the Eucharistic liturgy of the Roman Catholic mass. Mgr Van Bekkum was in a minority, however, and many of the other missionary priests (at the time still primarily European) wrote numerous letters of protest to Rome about his 'buffalo mass'. Most priests rejected the idea that the use of animals in sacrifice as intermediaries to the ancestors could be considered 'Catholic'. Many of them scoffed at the indigenous ritual activities as a 'chicken religion' (*agama manuk* or *agama ayam*).[7] In fact the activities associated with these ritual sacrifices were deemed 'sins' that had to be confessed to a priest.

From a theological point of view, there has been much criticism of the church, post-Vatican II, from the clergy within as well as from intellectuals without. Critics, like Prior, note the lack of sympathy or respect for adat. This has varied widely among priests, however. The early church attitude supported the dismissal of customary rites, while the later church has still had difficulty finding its way with 'inculturation'. Some theologians, such as Prior, add that the Catholic faith has never been planted deeply in Flores, which is at the root of other problems. One reason why this is so is the

attention the missionary priests have paid to local development work. Prior states this glibly when he says many people describe the priest's tasks as *sakramen dan saksemen* (sacraments and sacks of cement) (1988: 54). Webb, who writes about Christian churches across the Sunda Islands, relates some criticism of a few priests who had worked on Flores, towards the church's foreign aid programmes, which they said taught the people to become 'beggars' (1986: 176–8).

As much as some of the clergy may have been critical of the church's involvement in the material side of life, one rarely hears a Florenese criticize this.[8] I would argue that part of the great admiration, even devotion, shown to the clergy, especially the early foreign missionaries, has had to do with gratitude for so much aid that they gave to the village folk of Flores over the decades. Many remember fondly how such and such a priest gave them or a relative the opportunity to further their education, to build a sturdy house, to plant coffee, chocolate, or clove trees, to heal them from some wound or disease, or to send them to the hospital to be treated or operated on. This attitude of Manggaraians toward the foreign missionary priests has significantly influenced their attitude towards Catholicism as a whole. That so many have come to identify themselves wholeheartedly as Catholics has to do with a entire constellation of events, but the self-sacrificing attitude of so many of the foreign priests has done much to creating a self-identification with Catholicism. This aid from foreign priests has, in fact, resulted in ideas of kinship, since in Manggaraian social life aid is something that senior kinsmen give to juniors. In addition, many Manggaraians engage in what appears to be boasting about how many of the old famous priests of early Manggarai their families had contact with, or how many other foreign priests they or their families know. Even Muslims have shown great admiration and gratitude for the early missionary fathers, and draw legitimacy for their connections with Manggarai, by knowing and having connection with the early famous priests. Furthermore a more recent and important part of being Manggaraian, and Catholic, is how many priests, nuns, or other clergy people have in their extended network of kin. Being Manggaraian for so many people has therefore to do with this history of the church in their families, and how this history has shaped their present and their future.

It could also be argued in this sense that the church has become almost too localized in recent years. What might be interpreted as kinship connections, seen in a kind light, may also be interpreted as a form of nepotism, corruption, and collusion, something that Manggaraians themselves have become somewhat critical of in their native priests in recent years. Becoming a priest or sister, or even receiving just a mission education, has, since the early years, been a guarantee of a path to a better life.[9] The church has from the beginning been associated with wealth, on what continues to be a poor island; and though they have always provided a great amount of aid to poor villagers, the life of priests and nuns is still one of great luxury (in

terms of better food and housing) in comparison to village life. A cause of present criticism is not just the more luxurious life, which nowadays includes also owning a car and frequent travel, but what is seen as the diversion of attention away from more spiritual matters toward revelling in the material.

It is therefore interesting to reflect on one of the seeming paradoxes of current Catholic religious life. The church's material efforts have afforded considerable wealth and well-being to some, while for everyone in Manggarai its material gifts have been substantial. This material aspect, though criticized, has created a strong feeling of kinship with certain individual 'founder priests' but also with the church as a whole, and is one element that makes people feel 'essentially' Catholic. Excess materialism, however, has come to be a cause of criticism, precisely toward the youngest generation of priests, who, instead of following in the footsteps of the early missionaries who gave selflessly to the Florenese, are, people feel, only taking from them. They take the regard that their status as a priest demands, along with the material wealth that they can accrue in the position. Meanwhile, not only have they used this material wealth for themselves but they have also redirected funds and materials to family members living elsewhere. Hence, again, precisely the ties of kinship, which were so highly valued in the older generation of foreign priests, have come to be seen as excessive in the younger generation of native priests.

This brief overview demonstrates that the feelings of strong 'Catholic identity' created during the twentieth century had indeed to some extent been forged on the 'graveyard of communities' (Bauman 2001). Traditional adat communities had been reformed by the church and the New Order's policy of resettlement and reorganization of village politics. Adat had lost its 'sacredness', and had been transformed to 'art' and 'custom'. This had a lot to do with the missionary view of traditional ritual as 'pagan', something that had to be re-created without the 'satanic' elements, and of many traditional customs (marriage practices for example) as being anti-Catholic. A relationship with cultural traditions was produced by the church, while at the same time a particular identity was fashioned by the church for Manggaraians. They were Manggaraian but also 'true Catholics'.

The shape of this identity, however, has been queried since the onset of reformasi. This became evident when I attended a ritual of *Penti* in 2000, in Tukeq, a hamlet outside Ruteng. Penti is a New Year ritual specifically attached to a particular place and its inhabitants. Sacrifices are made where important guardian spirits are said to be located, such as the spring, the graveyard, the village centre, and the villagers' main house poles. During this particular ritual in Tukeq, people had returned to a practice of animal sacrifice which had been earlier abandoned. Interestingly they were conceptualizing these animal sacrifices at key village places not as 'offerings' to the spirits but instead as 'invitations'. These spirits were being invited to 'pray to God', together with the whole village community at a larger ceremony in



Figure 11.3 Talking through a chicken during Penti, Tukeq hamlet, 2000

the evening. In this way the ritual sacrifices – such an anathema to the earlier missionaries – had been reconceptualized as a way of uniting the villagers, their ancestors and various other spirits in their prayers and offerings to one monotheistic God.

It seemed, therefore, even in the urban centre of Manggarai, that 'custom' was being revived, and practices that had long been discarded because of church disapproval were being reinstated, and reformed, in such a way that people saw them as still fundamentally Catholic rituals. When asked when they had reinitiated these Penti rituals and animal sacrifices, some said 'this is part of reformasi'. The Catholic religion, it seems, was also being subjected to reform, inspired not from the 'top' as 'inculturation' efforts of the past had been, but from local communities themselves.

There are a number of ironies of the present situation in Manggarai. Foremost is that although many people are rethinking the relationship between themselves and the church and the traditions integral to their being, while criticizing the church's role in Manggarai in relation to local culture, at the same time these people have embraced Catholicism, and feel, perhaps more strongly than ever, that they are 'true Catholics'. Catholicism *and* Manggarai-ness – the latter defined by doing certain things in an adat manner – have become self-conscious parts of their identity. But as being Catholic becomes more 'essential' but less prescriptive, it appears that being 'Manggaraian' is becoming increasingly a prescriptive and dogmatically defined 'identity' (as discussed in the first section), defined by doing certain 'Manggaraian things'. The recreation of adat, then, involves bearing a

Catholic identity in a more comfortable, loose way, but clouded by an uncertainty and apprehensiveness about one's cultural, Manggaraian roots (which people increasingly feel they have lost, or are not living up to).

Revival of adat institutions in relation to land disputes

Part of this uncertainty about Manggaraian identity has to do with a growing sense of loss. This loss relates to a recognition that adat institutions, once capable of resolving conflicts (either between villages or between individuals), have been neutered by New Order policy. This has been reflected in the increasing incidence of land conflicts in Manggarai, beginning in the early 1990s. Much attention has been paid by the local government (both during the New Order and after) to resolving this knotty problem. Land conflict seemed to point to the fractured nature of Manggaraian social life in general, that many feel needs to be healed, something that a number of cultural, adat-inspired events have tried to do since the New Order's eclipse (see Erb 2003a, 2005).

When in the early 1990s land conflicts reached 'epidemic' proportions, the then bupati, Gaspar Ehok commissioned Robert Lawang (later published as Lawang 1999) to find a solution. Lawang saw the trouble as primarily one of '*de-Manggaraisasi*' (loss of Manggaraian identity), which translated into watering down of kinship or marriage ties, which had previously kept the memories of migration and alliances alive and active. It also included the emasculation of adat institutions as conflict-resolution mechanisms, with the increased tendency to use the state courts (*hukum positif*). Unlike the adat resolutions the courts recognized 'winners' and 'losers', instead of seeking compromise. And what was most iniquitous about this was that who won or lost a case could actually change, depending on which court and which judge one approached, and how much one was willing to pay. In later years, Lawang relates, even decisions about land boundaries made by the 'king' of Manggarai during, or immediately after the colonial period, were overturned by state courts, if the price was right. Hence this system of appeal not only undermined the authority of adat and of more traditional-style leaders but also showed that it was possible to win one day and lose the next. In other words, it was worthwhile to continue to appeal, and not let the matter rest. These prolonged conflicts essentially bankrupted the participants – economically, socially, and emotionally (Lawang 1999: 105–8). Conflicts became not only irresolvable, but also increasingly deadly. Frustrated losers – that is, past winners – would attack the new winners, although, in every case of which I am aware, the adversaries were related to one another, usually by ties of traditional marriage alliance. Land conflicts were thus a sign of the loss of adat as an institution which could create ties between strangers, and allow them to live harmoniously and productively together. As was mentioned earlier, traditional land tenure institutions allowed non-related individuals to gain rights to land; various adat institutions

made it possible to embrace 'strangers' by incorporating them into a village or clan. But with 'modern' institutions that emphasize individual land ownership and the buying and selling of land, kinship and marriage alliances became increasingly unnecessary in relation to land, and, with the appearance of different authorities and means of resolving conflict, adat was thus emasculated. To have an 'adat' claim, that is a claim based on kinship bestowal, or land received from traditional division procedures, could mean little, if someone else paid for a certificate that entitled them to that land which could be upheld in a state court. Believing that adat claims were legal, and that one needed little else, could, in fact, therefore become a liability. This is part of how I interpret Lawang's claim, referred to earlier, that seeing the traditional land system as being just a communal division of land into pie-shaped pieces (like a spider's web), could be a fatal error, if operationalized in this manner. Notwithstanding the complexity of land conflict in Manggarai, of interest here is the relationship between recent conflicts and the emergence of a different understanding and 'revival' of adat.

Land conflict in the early 1990s was mostly between villages. Clans, which had been allied through marriage, and had bestowed rights to land in the past, started to disagree over rights to this land because of the growing pressure to own land individually. The rising value of land in an increasingly capitalist economy worsened matters. In the early 1990s there were seven serious conflicts investigated by Lawang (1999: 91–109). They erupted repeatedly over several years between the same pair of villages, leading to attacks on villages, killings and burnings of houses. For the same period, Lawang documents four cases of a different type of land conflict, whereby villages demanded the return of land, or a further compensation for land earlier surrendered for public use (1999: 91, 96–7). Lawang identifies rising land prices and growing population pressures as reasons why people were feeling the lack of land, and were demanding it back from the government.[10]

In the late 1990s, after the end of the New Order, and cries for 'reformasi', a greater number of this second type of conflict, aimed directly at the government, started to emerge. People began to feel as if the regime had somehow cheated them out of their land, and that reformasi meant that all their problems could be rectified. The new government leaders who were chosen to lead Manggarai were considered knowledgeable about the modern world as well as Manggaraian traditions, and hence ready to bring Manggarai into a new era. The new bupati, Anton Bagul Dagur, the former head of the Department of Education and Culture, had written a book about Manggaraian culture (1999), and considered himself an adat expert. Upon resuming office, he showed off this adat knowledge by singing traditional songs, wearing traditional dress and using ritual speech whenever he visited a village. The plan of the new government was to do things the 'adat way' (*secara adat*), and this would resolve the many existing conflicts, and hence restore order and harmony to Manggarai.

According to many critics in Manggarai, however, the new government leaders were guilty of major misuses and misunderstandings of the way that adat and the land tenure system based on lingko operates. As Robert Lawang predicted (1990: 40), mentioned above, this has led to fatal consequences. For the local government elite, adat is a display: displays of traditional songs, caci games, the 'spider's web' fields, the visual and showy which can be readily identified with 'Manggaraian-ness'. These are what they would like to see preserved and what they identify as 'adat'. However the relationships that are underlying the institutions of adat, the village life that formed the substance of these institutions, is not what the local government wants to see revived or survive. This misunderstanding of the 'way of adat' (*secara adat*) is quite clear in the way government officials attempt to resolve conflicts, by offering bottles of palm wine and gifts of money in a ceremonial presentation called 'kepok'. Critics say the government treats this ceremonial exchange as a way of finishing a problem, whereas it is only meant as a means of opening a discussion. It is not possible in a village to just come in, say 'kepok', give a bottle of palm wine, and then expect the problem to be solved. Kepok begins and ends discussions; it is not the negotiation itself. But for those in the government, kepok is a display; it looks good to use it, it appears that a person is 'cultured'. However what it means and how a person who does it relates to those who receive it, is a sensitive part of village relations, critics say, and cannot just be done for show.

That adat is meant for 'show' and not for a true revival can be seen in the way that the real aim of the 'reform' government is to bring Manggarai into the global era, eliminating traditional agriculture, and making Manggaraians 'workers' instead of farmers. The local government considers the source of major problems in Manggarai as 'unemployment' (notwithstanding that most people are farmers), and 'low human resource potential' (*sumber daya manusia rendah*) and that the only way to really solve these problems is to bring in investors.[11] Hence it is not surprising, given this actual stand toward more traditional Manggaraian ways of life, that the local Manggaraian government (1999–2004) took a very aggressive stand toward traditional farming and land tenure, and what has come to be an essential means of gaining cash for the Manggaraian farmer: the planting of coffee, cacao, and vanilla.

Since colonial times, certain land had been marked as 'forest land' in response to concern over the negative environmental impact of shifting cultivation (Mennes 1931; Moeliono 2000: 96). This was especially so around Ruteng, the Dutch-constructed capital, which was nestled in a valley overshadowed by the highest mountains in Manggarai. These mountains were marked out as an area of watershed protection. Later this land became incorporated into a natural recreation park, a way of using eco-tourism to promote conservation. In recent years, however, water has been disappearing in the village springs surrounding Ruteng, and the reason, it is claimed,

is illegal logging and the opening of protected forest lands for use in cultivating food and cash crops.

While conducting research in 2000 on eco-tourism plans associated with the Ruteng Nature Recreation Park (TWAR), Drs Josep Jelahut and myself were told the history of the establishment of this park by its head (also see Erb 2001). When the Dutch first closed these mountainous forestlands off for watershed protection they were called *hutan tutupan* (closed forest). Four villages, however, were granted permission to continue use of some of the enclosed land; these have been referred to ever since as 'enclaves'. According to TWAR's head, the boundaries, originally established in 1933 and finalized in 1953 under the new government of the Republic of Indonesia, have remained unchanged. The original boundary markers that were made of mounds of rock were replaced with cement pillars during a three-year period, 1979–81. The TWAR itself was established in 1993 in the context of a project, entitled 'Biodiversity Conservation', funded by the Asian Development Bank (ADB), designed to establish a number of protected and buffer areas in Indonesian forestland, one of these being in Ruteng. Forest conservation was an integral part of an 'Integrated Conservation Management Plan', which was to include nearby locals, so that their livelihoods would not be detrimentally affected (Kramer 1996). As was mentioned above, one solution was eco-tourism (ADB 1992).

Although the head of TWAR insisted that the boundaries had not been moved, many stories circulate about how they were (see also Prior 2003), and indeed several enclave villages have insisted that they lost a great deal of their cultivable land to the state. A visit we made to one old village site on TWAR's southern boundaries seemed to support the villagers' claim, since the Dutch boundary markers (piles of stones) were at least one hour's walk from TWAR's new white pillars. With very different ideas of where the boundaries of state and village land lie, it is not surprising that already in 2000 there were cases of villagers being caught as trespassers on 'state' land, either accused of illegally logging or because they had begun again to cultivate land that the state considered 'closed forest'.

Prior to the TWAR, there were already heavy accusations of dirty dealings over protected forestlands in Ruteng. In the 1980s the then bupati, Frans Burhan (1979–88), had apparently permitted a Javanese businessman to plant coffee in the protected forest around Lake Rana Mese, the 'showpiece' of the TWAR (see also Prior 2003). The irony now is that the park's supposedly pristine forests around the lake, are in fact weeds, coffee, and acacia. Additionally there are many tales about forestry officials in the 1970s and 1980s who had profited handsomely by taking wood from the protected forestlands. Either they had fined villagers for their putative illegal use of the forest by forcing them to pay in wood, or they had sold concessions to Chinese businessmen in Ruteng.[12] Moreover villagers tell how they were forced to give 60 per cent of the produce of coffee trees located in the area

classified as state forestlands (see also Prior 2003). Yet these trees dated from colonial times. Villagers also complained about how corrupt officials, who destroyed the forests, blamed them. Meanwhile, those planting or clearing land that they considered their own risked being jailed.

So it is not surprising that the TWAR project was also riddled with accusations of corruption and disregard of the aims of conservation. Some see it as a front for a more lucrative operation in the planning stages. One activist said he had seen satellite maps, in the provincial capital Kupang, that indicated sizeable gold deposits in northern Flores (see also Prior 2003). Plans to extend the TWAR boundaries to include more of the northeastern forests had been made, he argued, to take the land from locals in order to invite in foreign mining companies. This kind of tactic has been prevalent in Indonesia, he claimed, and it was already being tried in Flores around the northern town of Reo.

Accusations of this type started to carry more weight, when in 2002 and 2003 the then bupati decided to 'solve' the problem of illegal occupation and use of state forestland. In October 2002 he sent in the police, the army and hundreds of high-school students with chain saws to clear coffee trees belonging to the villagers of Meler-Kuwus, west of Ruteng.[13] Local NGOs supported the villagers in massive protests, while those people who returned to the land were arrested. One of the leaders of a new NGO, Serikat Petani Manggarai (Manggarai Farmers' Union) – a branch of the National Farmer's Union, which has grown rapidly in the reform period (Lucas and Warren 2003) – was arrested and accused of inciting riots. Other NGO advocates feared that more arrests would follow, and one of them ran to Jakarta to avoid arrest and to seek help. Environmental NGOs, such as WALHI and SKEPHI, and legal aid societies, reading all this as an assault against indigenous people's rights, threw their support behind the cause. They formed an alliance entitled Advocacy Team for Manggarians (TARM), while sending various kinds of aid to farmers and NGOs in Ruteng.

In July 2003 I met lawyers from LBH (the Legal Aid Society) who were defending the farmers on trial, who were accused of being *perambah hutan*, illegal users of the forest. They constructed a defence based on the defendants being members of a *masyarakat adat*, an adat community that was simply using ancestral land. The lawyers also claimed that the government had never properly 'socialized'[14] the villagers about the land being 'forest' or 'state land', as the government had claimed. Most critically, agreements to make the land 'forest' had been signed by a village head (*kepala desa*) without the other villagers' knowledge.

One key point NGOs focused on in defence of the villagers is that the government kept referring to the contested land as 'lingko'. For the activists and the villagers, this was an admission that the land was ancestral, agricultural land, and hence not 'forestland'. The government, however, failed to recognize this inconsistency. This again points to Lawang's warning about the superficial use of the word 'lingko'. For the villagers and their defenders,

lingko meant land that was an integral part of a community, whether it was actually being cultivated or not. For the government, lingko simply described parcels of land cultivated in the unique Manggaraian style. Importantly, the government use of this word did not entail the idea of 'rights' that were integral to the use of the word in the village context. For the villagers, if the land was considered lingko, it 'belonged' to a village, and had been opened and 'consecrated' as such by adat. Government officials did not recognize the meaning and the depth of the relationships of adat – as community, authority, and unity among land, people, and the supernatural. Hence both could use the same word 'lingko' and understand thoroughly different things by it. The meaning for government officials, was lingko as 'display', a spider's web field; for the villagers it meant obligations and relationships.

Despite the indignation that the chain-sawing incident aroused, the Manggaraian government announced plans to clear more state lands of intruders; this time, in October 2003 on TWAR's eastern boundaries, near the village of Colol. The brutality of the measures to rid the land of villager occupation shocked many Manggaraians, but in March 2004 the arrests of a number of women and an old man accused of trespassing on this land led to even greater outrage. On 10 March 2004, when village members protested at the police station, the police shot dead six people and injured twenty-seven others (*Pos Kupang*, 21 March 2006), nineteen of them seriously (WALHI 2004). The National Human Rights Commission (Komnas HAM) and the Franciscan Justice and Peace Commission investigated, along with other external observers (Prior 2003; *Hidup* 2004). The local government insisted that forcibly removing villagers was the only way to save the area's forests and preserve water for future use. In addition, it is the sole means to maintain peace in Manggarai. They admitted these acts were pre-emptive; but claimed it was better to act aggressively now than have future battles between villages because of lack of water. According to the Indonesian Environmental Network (WALHI 2003), however, the local government had in fact signed six lucrative contracts for industrial forest concessions on these lands with teak and mahogany plantation investors. It is doubtful that any monocultural plantation will be more environmentally beneficial than coffee to the deteriorating situation of ground water loss and ecological degradation (Prior 2003).[15]

Near the end of the district head's term, in July 2004, I spoke to one of the chief administrative officers. Although expressing loyalty, this man felt that the government under that head had accomplished little. The local government had spent an enormous amount of money trying to 'make peace', paying enormous settlements to villages with land conflicts, partially via kepok as mentioned earlier. But once people realized that conflict was lucrative, it became impossible to put an end to the conflict. The bupati claimed to seek 'peace' so as to court foreign investors, but much of the recent conflict was created directly, or indirectly, by his government's policies. This

'reform' government at the local level in Manggarai, which had claimed to be reviving adat, as well as solving Manggaraian land and ecology problems, had instead principally been continuing the policies and attitudes towards adat which were fostered under the New Order. Adat is best kept to be shown and displayed for tourists, local people who live on the basis of 'adat' have 'low human resource potential', and the best way to ensure 'reform' is to develop with the aid of foreign investment.

Conclusion: adat revivals

Adat revivals can be understood in multiple ways in Manggarai. The three dimensions discussed here have emerged within the context of a growing feeling of cultural loss, precipitated by changes beginning in the colonial era and continuing through to the end of the New Order. Since reformasi people have felt 'freed' to rethink the role of 'tradition', these multiple meanings of adat, in their lives. What had at one time been a negative assessment of adat, be it as customary practices, religious ideas, or social institutions, has been progressively re-evaluated. People have grown nostalgic for adat, increasingly convinced that it is in fact the guarantee of harmony in Manggaraian social life. And amidst feelings of fragmentation, chaos, and disaster, adat appears as that certainty people can grab on to. Interestingly, this is proving to be so both for villagers (and local NGOs who work with them) and for government elites, groups that have increasingly fallen into opposing camps as the first period of reformasi drew to a close. As I have attempted to show, this is in part due to the diverse meanings attached to adat and its constant reshaping over the twentieth century.

Turning to 'adat' is highly political. It is clearly tied to regional autonomy, reformasi, and the displaying of a 'global' identity for appreciation by outsiders. This is partially the product of a New Order programme of engineering identities for nation-building purposes. At the same time, being Catholic is political too, since in Manggarai there are real fears that the 'reformed' Indonesian state is taking on a more Muslim face. Most forcefully, adat has become highly politicized in the struggle over land rights. The local government's assertive claim to forest lands has propelled Manggaraians into alliances with national NGOs involved in fighting such issues before and after Suharto's downfall.

Ultimately the revival of adat has meant a considerable struggle for local communities, increasingly termed *masyarakat adat* (adat communities) in the lingo of the reform era. With what has been seen to be a favourable environment for reviving adat, communities have been emboldened to think about the role of adat in their lives, in rebuilding houses and restoring rituals, in rethinking community organization and community rights over land. Ironically a view of adat institutions as inhibiting 'progress' and investment, though not stated openly as in the New Order period, is in reality an idea just as strongly held by local government elites as during the New Order.

Their power to act on this idea, despite praising adat for its potential for promoting harmony, has increased with regional autonomy, and appears to have led to much greater distance and bad faith between village people and the government than was the case in earlier times, that were ironically more centralized and less democratic.

Notes

1 The research on which this paper is based has been conducted at various times over the past 20 years. Recent research done between July and October 2000 and May and July 2001 was under the auspices of LIPI with the sponsorship of University of Nusa Cendana in Kupang, and funding from the National University of Singapore grant no. R111-000-022-112/007. I want to thank my research assistants, Drs Josep Jelahut, Ardie Agus, and Marcel Djeer. Many thanks also to the many priests who I have spoken to over the years, who have provided many insights into the life of the church in Manggarai. Among these must be mentioned most especially P. Stanislaw Mucek SVD, P. Stanislaw Ograbeck SVD, P. Stanislaw Wyparlo SVD, P. Stephanus Wrosz SVD, and P. Jan Olenski SVD. Special thanks also to Vitus Tamor, Agus Jehadut, Rufino Kant, Romanus Beni, and Wilhelmus Anggal for many stimulating discussions. The ideas and comments on the events discussed in this paper, however, are my own responsibility.

2 In July 2003, Manggarai was divided into two districts, Manggarai and West Manggarai. This chapter éxtends over the period before and after the split. The political issues dealt with primarily have to do with what is today Manggarai.

3 In 1992 a road was being finished that would connect Todo to the main road on Flores, and this was one of the reasons why plans were being made to rebuild the house. This road could be constructed only with major digging or blasting of a hillside, a project initiated by Todo's resident missionary priest at the time.

4 This was especially so since many of these competitions or displays took place in the context of the 17 August Independence Day celebrations.

5 When Sukarno was exiled in Ende, Flores, in 1938–9, he became acquainted with the Catholic Church for the first time, spending many evenings in conversation with several priests. His formation of the concept of Pancasila can be traced to his time there (Prior 1988: 242–3).

6 Prior (1988: 46) suggests that the change from the pre-Vatican II 1950s to the post-Vatican II 1980s went from adaptation, some incorporation of elements of local culture into the Catholic liturgy, to acculturation, a taking over of a local culture, which the Vatican imbued with the standards of the Gospel, and to inculturation, a recasting of local culture from within by Gospel values.

7 This is because chickens are the most common ritual offering.

8 Although there is a lot of criticism these days of the way the government had encouraged people to develop a 'project mentality', that is ask for money from Jakarta for a project and then siphon off most of the funds for personal use, and some criticism of foreign aid coming through NGOs, there does not seem to be the same kind of criticism levelled at the church's aid, especially that given in the early years. In fact quite the reverse seems to be true.

9 Webb goes so far as to suggest that the church in Flores became too involved in education, and that the Florenese became 'overeducated'. This is because

there was often no place for them to get the kind of work which their education would warrant, and hence they were forced to leave the island (Webb 1986: 59–71).

10 This process of claiming back land that had been taken away during the New Order has become very widespread and was more intense in other parts of Indonesia. See Lucas and Warren (2003).

11 *Sumber daya manusia rendah* is a popular expression used by elites to blame the villagers for their own 'backwardness' (see also Charras 2005: 91). For more on the belief in the benefits of 'globalization', and the fights against this see Erb and Jelahut (2002), and on the Manggaraian local government's push to globalize disguised as 'reviving' traditional culture see Erb (2003a).

12 Manggaraian villagers' experience seems to resonate with those of Java and Borneo, discussed by Peluso (1992, 2000), where 'environmental protectionism' had criminalized locals but gave free reign to legal and illegal loggers who raped the environment far more destructively than locals were capable of.

13 This was land that had been staked out as forestland without the consent of the villagers in 1984 (Prior 2003: 14).

14 Lucas and Warren (2003: 106) mention the use of the word *socialisasi* and comment on its rather shady origins. However, as they comment, it has become more widespread, and, in my observation of the usage, people in a very matter of fact manner expect that local communities should be 'indoctrinated', or in a more positive light, given explanations of a law, regulation or other government or agency action, before it is enacted. The word of course still has the highly pejorative sense of a top-down approach.

15 One local NGO and one Franciscan priest have made a case in a short film that it is not coffee that has caused groundwater loss in Manggarai but the government programme back in the 1980s of planting *ampupu* (a kind of fast-growing eucalyptus), which soaks up groundwater (being used to drain swamps).

References

Acciaioli, G. (1985) 'Culture as art: from practice to spectacle in Indonesia', *Canberra Anthropology* 8(1/2): 148–72.

Adams, K. (1997) 'Touting tourist primadonnas', in M. Picard and R. Wood (eds) *Tourism, Ethnicity and the State in Southeast Asia and the Pacific*, Honolulu: University of Hawai'i Press.

—— (2003) 'The politics of heritage in Tana Toraja, Indonesia: interplaying the local and the global', *Indonesia and the Malay World*, 31(8,9): 91–107.

Anderson, B. (1991) *Imagined Communities: reflections on the origin and spread of Nationalism*, 2nd edn, London: Verso.

Asia Development Bank (1992) 'Appraisal of the Biodiversity Conservation Project in Flores and Siberut in Indonesia', Manila: ADB.

Bagul Dagur, A. (1999) *Kebudayaan Manggarai Sebagai Salah Satu Khasanah*, Surabaya: Uhbara Press.

Bauman, Z. (2001) 'Identity in the globalising world', *Social Anthropology*, 9: 121–9.

Bekkum, W. van (1944) 'Warloka-Todo-Pongkor, een brok gescheidenis van Manggarai', *Cultureel Indië*, 6: 144–52.

—— (1946) 'Geschiedenis van Manggarai (West Flores), Todo en Pongkor', *Cultureel Indiē*, 8: 65–75.

Bruner, E. (2001) 'The Maasai and the Lion King: authenticity, nationalism and globalization in African Tourism', *American Ethnologist* 28: 881–908.

Charras, M. (2005) 'The reshaping of the Indonesian archipelago after 50 years of regional imbalance', in M. Erb, P. Sulistiyanto, and C. Faucher (eds) *Regionalism in Post-Suharto Indonesia*, London: RoutledgeCurzon.

Coolhaas, W.P. (1942) 'Bijdrage tot de kennis van het Manggaraische Volk', *Tijdschrift van het Koninklijk Nederlandsch Aardrijkskundig Genootschap*, 59: 148–77, 328–60.

Erb, M. (1987) 'When rocks were young and earth was soft: ritual and mythology in northeastern Manggarai', unpublished thesis, SUNY Stony Brook.

—— (1991) 'Stealing women and living in sin: adaptation and conflict in morals and customary law in Rembong, Northeastern Manggarai', *Anthropos*, 86: 59–73.

—— (1994) 'Cuddling the rice: myth and ritual in the agricultural year of the Rembong of Northern Manggarai, Indonesia', *Contributions to Southeast Asian Ethnography*, 10: 151–83.

—— (1996) 'Talking and eating: sacrifice among the Rembong (Northeastern Manggarai)', in S. Howell (ed.) *For the Sake of Our Futures: sacrificing in eastern Indonesia*, Leiden: CNWS.

—— (1997) 'Contested time and place: myth and history in Todo, Manggarai (Flores, Indonesia)', *Journal of Southeast Asian Studies*, 28: 47–77.

—— (1999) *The Manggaraians: a guide to traditional lifestyles*, Singapore: Times Editions.

—— (2001) 'Eco-tourism and environmental conservation in western Flores: who benefits?', *Antropologi Indonesia*, 66: 72–88.

—— (2003a) '"Uniting the bodies and cleaning the village": conflicts over local heritage in a globalizing world', *Indonesia and the Malay World*, 31(8,9): 129–39.

—— (2003b) 'True Catholics: religion and identity in western Flores', *Histoire et Anthropologie Asies*, 2: 125–60.

—— (2005) 'Limiting tourism and the limits of tourism: The production and consumption of tourist attractions in West Flores', in Ch. Ryan and M. Aicken (eds) *Indigenous Tourism: the commodification and management of culture*, London: Elsevier.

Erb, M. and Jelahut, J. (2002) 'The Indonesian crisis in an alternative perspective: views from Outer Indonesia', in A. Ananta (ed.) *Lessons from the Indonesian Crisis: a human development perspective*, Singapore: ISEAS.

Erb, M., Beni, R., and Anggal, W. (2005) 'Creating cultural identity in an era of regional autonomy: reinventing Manggarai?', in Maribeth Erb, Priyambudi Sulistiyanto and Carole Faucher (eds) *Regionalism in Post-Suharto Indonesia*, London: RoutledgeCurzon.

Erb, M., Sulistiyanto, P., and Faucher, C. (eds) (2005) *Regionalism in Post-Suharto Indonesia*, London: RoutledgeCurzon.

Hidup (2004) 'Gereja di persimpangan: insiden petani kopi Manggarai NTT', *Hidup*, 29: 6–11, 18 July.

Hillman, E. (1970) 'The development of Christian marriage structures', *Concilium*, 6(6): 25–38.

Hitchcock, M. (1997) 'Indonesia in miniature', in M. Hitchcock and V.T. King (eds) *Images of Malay-Indonesian identity*, Kuala Lumpur: Oxford University Press.

Kipp, R. (1993) *Dissociated Identities: ethnicity, religion and class in an Indonesian society*, Ann Arbor, Michigan: University of Michigan Press.

Kramer, R.A. (1996) 'The economics of the Siberut and Ruteng Protected Areas'. Online. Available: <http://www.duke.edu/~kramer/bvs/BVS-TITL.htm> (accessed 12 July 2001).

Lawang, R. (1989) 'Stratifikasi sosial di Cancar-Manggarai, Flores Barat', unpublished thesis, University of Indonesia.

—— (1999) *Konflik Tanah di Manggarai, Flores Barat: pendekatan sosiologi*, Jakarta: University of Indonesia Press.

Lucas, A. and Warren, C. (2003) 'The state, the people and their mediators: the struggle over agrarian law reform in post-New Order Indonesia', *Indonesia*, 76: 87–126.

Mennes, H.M.M. (1931) 'Eenige aantekeningen over onderafdeling Manggarai op het eiland Flores', *Koloniaal Tijdschrift*, 20: 243–66, 371–90.

Moeliono, M.M.M. (2000) 'The Drums of Rura: land tenure and the making of place in Manggarai, West Flores', unpublished thesis, University of Hawai'i.

Mowford, M. and Munt, I. (2003) *Tourism and Sustainability: new tourism in the Third World*, 2nd edn, London: Routledge.

Nooteboom, C. (1939) 'Versieringen van Manggaraische huizen', *Tijdschrift voor Indische Taal-, Land-, en Volkenkunde*, 89: 221–38.

Orin Bao, S. (1969) *Nusa Nipa: nama primbumi Nusa Flores*, Ende, Flores: Percetakan Arnoldus.

Peluso, N.L. (1992) *Rich Forests, Poor People*, Berkeley, California: University of California Press.

—— (2000) 'The role of government intervention in creating forest landscapes and resource tenure in Indonesia', in K. Gaul and J. Hiltz (eds) *Landscapes and Communities on the Pacific Rim: cultural perspectives from Asia to the Pacific Northwest*, New York: M.E. Sharpe.

Pemberton, J. (1994) 'Recollections from "Beautiful Indonesia": somewhere beyond the postmodern', *Public Culture*, 6: 241–62.

Picard, M. (1995) 'Cultural heritage and tourist capital: cultural tourism in Bali', in M.F. Lanfant, J.B. Allcock, and E.M. Bruner (eds) *International Tourism: identity and change*, London: Sage.

—— (1997) 'Cultural tourism, nation-building and regional culture: the making of a Balinese identity', in M. Picard and R.E. Wood (eds) *Tourism, Ethnicity and the State in Asian and Pacific Societies*, Honolulu: University of Hawai'i Press.

Picard, M. and Wood, M. (eds) (1997) *Tourism, Ethnicity and the State in Asian and Pacific Societies*, Honolulu: University of Hawai'i Press.

Prior, J.M. (1988) *Church and Marriage in an Indonesian Village*, Frankfurt am Main: Peter Lang.

—— (2003) 'The church and land disputes: sobering thoughts from Flores', paper presented at the Christianity in Indonesia Conference, University of Frankurt, December.

Propinsi SVD Ruteng (1988) *Buku Kenangan 25 Tahun*, Ruteng, Flores: n.p.

TARM (2004) 'Mencoba (lagi) menjadi Orang Manggarai: rekaman kejahatan operasi kehutanan di Manggarai, Nusa Tenggara Timur', Jakarta: WALHI, Position Paper.

Urry, J. (1990) *The Tourist Gaze: leisure and travel in contemporary societies*, London: Sage.

Verheijen, J.A.J. (1967) *Kamus Manggarai*, The Hague: Martinus Nijhoff.
WALHI (2003) 'Terusir dari tanah sendiri', Jakarta: WALHI, Position Paper.
—— (2004) 'East Nusa Tenggara farmers unite for Manggarai, court victory included'. Online. Available: <http://www.eng.walhi.or.id/kampanye/hutan/shk/manggarai_unite> (accessed 31 March 2006).
Webb, R.A.F.P. (1986) *Palms and the Cross: socio-economic development in Nusatenggara*, Townsville: Centre for South East Asian Studies, James Cook University, North Queensland.
—— (1990) *Rural Development and Tradition: the churches in Bali and Flores*, Clayton, Victoria: Centre of Southeast Asian Studies, Monash University, Working Paper 65.

12 From bumiputera to masyarakat adat

A long and confusing journey

Sandra Moniaga

In Jakarta in March 1999, participants in the First Congress of the Indigenous Peoples of the Archipelago (Kongres Masyarakat Adat Nusantara, or KMAN I) brought the proceedings to a close with the resounding proclamation: 'If the state will not recognize us, then we will not recognize the state'. Formulated by more than two hundred representatives of indigenous peoples nationwide, this statement reflected their anger and frustration at the Indonesian state's inability to resolve long-running conflicts. Many of these have lasted decades.

Four pillars of New Order state-building – forced national unification, centralization, military repression, and economic development – resulted in widespread human rights abuses. Violations covered the civil, political, economic, social, and cultural rights spectrum. Although no exact figures (formal or informal) exist on the number of people or the extent of the areas affected by the violations, more than two thousand land and other natural resource cases were reported to the National Human Rights Commission in 2000 alone. Land cases were the most numerous, outstripping other headline-grabbing categories like labour disputes and torture (*Kompas*, 15 March 2004).

The highest state institution, the Peoples Consultative Assembly (MPR), has recognized the grave extent of natural resource conflicts. Its Decree no. 9 of 2001 reflects these concerns: first, ongoing agrarian/natural resource management conflicts lead to environmental degradation, imbalanced agrarian structures and conflict; second, the existing laws and regulations concerning agrarian or natural resource management are overlapping and contradictory; and, third, just, sustainable, and environment-friendly management of agrarian or natural resources has to be developed in a co-ordinated, integrated way, which accommodates the people's dynamic development, their aspirations, and their participation, and which resolves outstanding conflicts.

In the three years since this recognition, according to the MPR's own admission, there has been no systematic attempt to implement its decree. In the meantime, conflicts continue. In August 2003 in efforts to reclaim ancestral land from a plantation company, three of the Ama Toa (Kajang) people in South Sulawesi were shot dead by the local police, fifty more were injured; community members hid in the forest for months. A similarly bloody conflict has flared in Manggarai (Flores) where indigenous peoples and

security forces have come to blows over contested land (see Erb in this volume, Chapter 11).

In September 2003 more than a thousand indigenous peoples' representatives held their second congress, KMAN II. The Congress was the culmination of a series of local and regional meetings following KMAN I. While a range of policy and organizational issues were discussed, more importantly representatives reaffirmed their concern over unresolved conflicts, including those involving the rights to and the management of land and other natural resources.

Previous studies have established that widespread land and natural resource conflicts in Indonesia are rooted in the lack of recognition of indigenous land rights and the different tenure systems recognized by local communities and the state (Slaats 2000; Fitzpatrick 1997; Harwell and Lynch 2002; Laudjeng et al. 2001). Complicating matters is the contradictory nature of some of the agrarian or natural resource laws, such as the 1960 Basic Agrarian Law and the 1967 Basic Forestry Law, which in 1999 was replaced by a new forestry law.

This chapter argues that substantive legal reconciliation is needed to help end such conflicts. In doing so, it examines the evolution of Indonesian laws and policies concerning indigenous peoples, problems underlying statutory laws and policies related to land and natural resources, and their inconsistency in recognizing indigenous land tenure systems. It then describes the emergence of the Indonesian indigenous peoples' movement as a reaction against state oppression, followed by an investigation into recent law reform initiatives. These initiatives symbolically recognize the existence of indigenous peoples and their land tenure systems at different levels and in various forms. While developments at the district level show some cause for optimism, the gap between indigenous peoples' demands and the state's hesitancy to acknowledge indigenous land tenure systems as a possible resolution to the conflicts remains wide. The chapter concludes by raising a number of questions needed for further study.

To avoid misunderstanding, references are made below to *masyarakat adat* as the translation for indigenous peoples as favoured by the peoples themselves. While it is acknowledged that the underlying causes of conflicts between indigenous peoples and the state in Indonesia are more complicated than land tenure systems and the attendant laws, what follows focuses solely on land tenure systems, land rights, and the role of law as the cause of, yet also possible solution to, the problem.

From *bumiputera* to *masyarakat hukum adat*: the evolution of state laws

We cannot deny the colonial roots of how the term 'indigenous' is currently used. The indigenous people are the descendants of the peoples who occupied a given territory before it was invaded, conquered or colonized by

a foreign power or population (Stavenhagen 1994: 9–29; Kingsbury 1998: 414–57). In Indonesia, the term *bumiputera*, literally meaning son of the earth, arose and was first identified (legally) during the colonial period. To govern the colony effectively, the colonial government divided the population into two legal entities: Europeans and bumiputera or autochthonous peoples (but also including groups known as the *timur asing*, or foreign orientals, comprising Arabic, Indian, and Chinese communities). The first group was bound to European law, the second to their respective customary (adat) law. The Dutch later redivided the population into three: Europeans, Foreign Orientals and *inlanders* or bumiputera.

Generally speaking, there are two competing perspectives on the grouping of peoples in the former Dutch East Indies by colonial law. Apart from economic interests in gaining better trading access to the 'foreign orientals', the first view suggests that the divisions were used as a tool to maintain the social superiority of the Europeans over the autochthonous population (Sunario 1974; Hartono 1979). The second perspective, articulated by Wignyosoebroto (1994), argues that the divisions were more closely attuned to respecting and recognizing indigenous laws. These laws pre-existed colonial rule and, in fact, were advocated by a number of Dutch scholars, mostly notably by Cornelis van Vollenhoven. From a legal perspective, Wignyosoebroto believes that Van Vollenhoven, who has been accused as being anti-progressive owing to his advocacy of the recognition of indigenous laws, did not stand against the idea of legal unification and codification. Instead, Van Vollenhoven fought against the politics of ignorance regarding indigenous laws which Dutch colonialists used to enable European law to penetrate native society more deeply.

The first perspective also argues that the groupings embodied the politics of Dutch racial discrimination toward indigenous peoples, intended to, first, co-operate with the Chinese who were persuaded to migrate from southern China; second, leave the *inlanders* as ordinary workers in the agrarian sector, which implied that they would remain in agrarian communities; and, third, institutionalize the politics of *divide et impera* or dividing the peoples against each other, both among the indigenous peoples and between the indigenous peoples and the other groups (Sunario 1974).

Having declared independence in 1945 and in an attempt to end the bitter experience of colonial racial discrimination, the Indonesian government excised the term bumiputera from legal documents. For instance, the 1945 Constitution uses *orang Indonesia asli* (native Indonesian). Although the Constitution does not provide elaboration on this latter term's meaning, scholars have concluded that it has functioned in ways similar to bumiputera or inlander (Sunario 1974; Kartohadiprodjo 1976; Sekretariat Negara RI 1995). Another relevant term found in the constitution related to indigenous peoples is the Dutch term *volkgemeenschappen*.[1] It refers to indigenous governing structures that should be recognized and respected by the state, based on the so-called *hak asal usul* or 'right of origin'.[2]

There was, however, dissension among founding statesmen over race- or ethnicity-based laws. Some wanted to abolish such discrimination altogether; others advocated the retention of ethnic or racial preferences – for instance, that the new nation's president had to be a 'native'. The fact that the constitution includes terms like *orang Indonesia asli* and volkgemeenschappen shows the sensitivity of Indonesians toward the idea of being indigenous subsequent to the end of the Dutch colonial legal regime. The recognition of indigenous governance acknowledges Indonesia as a conglomeration of highly pluralistic legal realities, the societies of which were governed by their own laws long before 'Indonesia' was established.

The more popular terms today connoting native and non-native (*pribumi* and *non-pribumi*) did not gain legal standing until 1959, when a governmental regulation for the 1955 law on 'dual citizenship' for the country's Chinese communities was enacted. The failed policy of assimilation imposed on these communities under parliamentary democracy (1950–9) was continued by Suharto's regime (Suryomenggolo 2003). One particular aspect of New Order policy was to co-operate with a select group of Chinese capitalists to develop state strategic assets, including the natural resource sector. This situation aggravated tensions between autochthonous and Chinese communities, with both parties claiming discrimination. The former felt disadvantaged in controlling and exploiting their natural resources, while a series of discriminatory laws and regulations differentiated Indonesians of Chinese descent from the majority of Indonesians (Suryomenggolo 2003: 80–2). Not until 2000, under the Wahid administration, was one of the most repressive regulations toward the Chinese – Presidential Instruction no. 14/1967 which effectively outlawed Chinese religious beliefs – cancelled. Despite this, the current legal environment regarding the Chinese in Indonesia remains largely unchanged.

In Indonesia the issue of indigenous versus non-indigenous is a complex one. The definition of indigenous and tribal peoples under International Labour Organization (ILO) Convention 169 requires clarification concerning the terms, definitions, rights, and procedures of the various peoples that self-identify as indigenous. In the late 1970s and early 1980s when the discourse on indigenous and tribal peoples gained global attention, the Indonesian government claimed all Indonesians as indigenous. In 1996 I argued:

> I agree if the government of Indonesia claims that most Indonesians, except the '*warga keturunan*' or the citizens of Chinese, Indian, and Arabic descent are indigenous, but I do not agree that all indigenous peoples are *masyarakat adat* and I do not deny the historical and social fact that not all Indonesian citizens are indigenous everywhere. Can we consider the West Papuan as indigenous peoples in Java? Or can the Madurese accept the Dayak as indigenous peoples in their island?
>
> Moniaga (1996: 10)

The issue then becomes what is the appropriate international legal term and/or English translation for the so-called *masyarakat adat* in Indonesia. The definition of tribal peoples in ILO Convention 169 is relatively close to the social and legal reality of masyarakat adat in Indonesia. But some masyarakat adat members disregard the term 'tribal peoples' because of its negative connotation. Thus they have settled on one term: indigenous peoples.

While the 1945 Constitution uses the terms *orang Indonesia asli* and volksgemeenschappen, subsequent laws and regulations have used various terms inconsistently. The term *masyarakat hukum adat*[3] or customary law community is used in the Basic Agrarian Law (no. 5/1960) and the Basic Forestry Law (no. 5/1967). Meanwhile, the Department of Social Affairs has used *masyarakat terasing* or isolated community (Setyoko 1998). As a consequence of, or perhaps strategically exploiting, these inconsistencies, the state has shown an incoherent approach toward the recognition of adat laws and rights over land and other natural resources.

In 1960 Indonesia enacted the Basic Agrarian Law (BAL), which was purportedly based on adat law (art. 5). At the same time, one of the act's aims was to end the dualism of land laws established by the Dutch colonial government. Yet it took nearly three decades for an implementing regulation on the status of adat rights to be issued. The issuance of this regulation by the Agricultural Ministry (no. 5/1999) for some reflected a new stance on the part of the state, for it provides the legal basis for recognizing adat land rights and laws. All things considered, however, the BAL's foundation in adat law is shaky at best; the tenure system found in the text differs from most adat-based tenure systems. Most notable, the BAL recognizes various types of rights, but not communal rights over ancestral domain (*hak ulayat*).[4]

The early New Order regime passed a series of laws that consolidated its power over natural resource exploitation. The Basic Forestry Law – otherwise known as BFL – laid the legal groundwork for the state to designate 143 million hectares of land (or 70 per cent of the total land mass of Indonesia) as state forest in the 1980s. The BFL, and similarly capital-friendly laws like the 1967 Basic Mining Law, began to override the BAL's relevance. In reality, the BAL never did effectively delineate adat lands. Moreover, the government divided jurisdiction over the lands – including the adat lands – between the BAL and the BFL, deciding that the former did not apply to state forests.[5]

In contrast to the BAL, the BFL recognizes only two ownership classifications: state forest and private forest. It also regulates different rights compared to the BAL. These rights include, first, forest utilization, second, industrial tree plantation utilization, third, management of forest tourism, and, fourth, community forestry programmes. These rights may be held by the state (central and regional governments), state enterprises, individual persons, or legal bodies (*badan hukum*). Neither BAL nor BFL recognizes masyarakat adat institutions as legal entities capable of possessing (or entitled to possess) any of the above-mentioned rights over land and forest resources.

In 1998 the Forestry Department issued two important regulations. Decree no. 47 was the result of a prolonged struggle of the indigenous Krui peoples of West Lampung, supported by some non-governmental organizations (NGOs) and research institutions.[6] While the decree did not recognize the Krui's adat land tenure system, it was the first legal recognition of an indigenous forest management system. Later, in response to criticism for its conventional policy on community forestry, the Forestry Ministry put out Decree no. 677 on Community Forestry. The empowers local communities to manage so-called 'state forests' for a period of 35 years with respect to various activities such as non-timber forest product collection, small-scale tourism, animal breeding, and the like. According to article 1 (7), the local communities are defined as groups of Indonesian citizens who live in or surrounding the forest and possess appropriate indicators of being of a community, on the basis either of genealogy, similarity in forest-based livelihoods, historical and/or collective attachment to the land, or other factors. Although this regulation allows for a relatively long period of access to the forest, it still fails to recognize adat land tenure systems.

In 1982 the Indonesian government enacted the Environment Management Act (EMA) and in 1990 passed a law on the Conservation of Biological Resources and Their Ecosystems (Conservation Act). The latter cancelled the relevant colonial laws (art. 43). It also contained an article (no. 37) that regulates the people's participation in biological resource conservation. It lacked, however, a clause on land tenure or on customary lands. An EMA clause mentions a similar peoples' right to participate in environmental management, but does not specify indigenous peoples.

The 1967 BFL was replaced in 1999 by a new forest law (no. 41) that recognizes similar classificatory schemes, but does so with new terms – *hutan negara* (state forest) and *hutan hak* ('rights forest'). The new law also created the category of *hutan adat* or customary forests, although its definition is controversial: 'adat forests are state forests located in traditional jurisdiction areas'. The controversy stems from the fact that, according to the new law, customary forests remain controlled by state, which may (or may not) allow the customary community in question limited use of the forest.

Like the Forestry Department, the Department of Energy and Mineral Resources has granted mining licences over adat lands, which have led to conflict between indigenous peoples and mining companies. Well-known examples include the Amungme and Kamoro peoples against Freeport McMoran Indonesia in Papua, the Dayak Benuaq and Tunjung versus Kelian Equatorial Mining in East Kalimantan, and the Haruku peoples against Ingold in Central Moluccas.

In all, state law and policies on land and other natural resources have been among the main sources of conflict and human rights violations. The rights violated include property rights, the right to food and proper nutrition, the right to live, the right to take part in cultural life, the right to self-determination (including the right to decide the degree to which

communities can maintain their adat), and the right to enjoy the highest standard of health, physically and mentally (Moniaga 2002).

The emerging indigenous peoples' movement (1993–2003)

After low-profile struggles by a number indigenous peoples in response to the loss of their rights and dignity at the hands of state policies, laws and actors, in March 1999 more than two hundred representatives of indigenous peoples gathered at the First Congress of Indigenous Peoples of the Archipelago (KMAN I). Initiated by AMA Kalbar, JKPP and JAPHAMA,[7] the Congress received strong support from many regional indigenous peoples' organizations and national NGO networks. Held in Jakarta, it garnered extensive media coverage and resulted in the establishment of the Aliansi Masyarakat Adat Nusantara (the Alliance of the Indigenous Peoples of the Archipelago, or AMAN). As an Indonesian proverb says: *gayung bersambut, kata berjawab*, which roughly translates to 'the challenge has been accepted'.

For decades, indigenous peoples have been struggling to reclaim their lands and live according to their customs. Some stood firmly against natural resource extraction companies and local authorities appropriating their lands; others struggled quietly. In 1988 hundreds of Batak Toba people of North Sumatra began opposing the plantation company Inti Indorayon Utama (currently named Toba Pulp Lestari). This company was granted permits to convert a local forest into a timber plantation. The ongoing struggle has been pioneered by ten women, led by Nai Sinta, in defence of their ancestral lands which were secretly transferred to the company on the basis of forged signatures (WALHI 1992; Simbolon 1998: 234–53). In Ketapang, West Kalimantan, Dayak Simpang have resisted palm oil development and logging concessions on their customary lands. In East Kalimantan, Dayak Bentian, renowned rattan cultivators, have fought against logging companies clearing their forests and thereby ruining their rattan gardens.[8]

In 1993 in response to these local struggles and state repression, WALHI (the Indonesian Forum for the Environment) and a regional counterpart facilitated a meeting in Tana Toraja (South Sulawesi). Those attending included a number of indigenous leaders and young human rights and environmental activists.[9] The informal meeting was held in the house of a progressive village chief, Sombolinggi, who enjoyed enough moral authority to keep local government and military authorities at bay. Out of this meeting the Indigenous Peoples' Rights Advocacy Network (JAPHAMA) was formed. The meeting also featured an intensive discussion for deciding upon an Indonesian term for referring to indigenous peoples and/or tribal peoples. Alternatives ranged from *orang asli*, *pribumi*, and *masyarakat hukum adat* to *masyarakat tradisional* and *bangsa asal*. *Masyarakat adat* – which means peoples who have ancestral origin in a specific geographical territory

and a particular system of values, ideology, economy, politics, culture, society, and land management (see Moniaga 1996) – was decided upon principally for two reasons. First, it is a term commonly used by the peoples in question. Second, in the context of Suharto's authoritarian regime, the term was deemed socially and politically acceptable. For instance, the West Papuan representative argued strongly that, if the term *orang asli* was selected, their struggle over adat lands and identity would be stamped secessionist and racist. For others, the term *pribumi* was deemed too general, commonly used to describe most Indonesians who are not of Chinese, Arabic, or European descent. *Masyarakat adat* was perceived as a compromised term of the state rendered *masyarakat hukum adat*. The latter restricts the scope of adat to refer to law or related norms. Ritual and other non-sanctionable customs fall beyond its scope.

Participants concluded that the prevalence of rights violations against indigenous peoples had to be confronted with a mass organized movement. It was agreed that priority would be given to building the movement; each participant was obligated to socialize the term *masyarakat adat* and advocacy strategies 'quietly' to their own constituencies. It was further agreed that JAPHAMA would not become a formal institution but remain a fluid network. Its mandate was to support the development of indigenous peoples' organizations and to convince other NGOs and related institutions to prioritize masyarakat adat issues.

Thus from 1993 onward, indigenous peoples' organizations and indigenous advocacy NGOs blossomed, adding to those already in existence. In West Sumatra young Mentawaians founded Yayasan Citra Mandiri; in West Kalimantan some young Dayak with the support of WALHI and YLBHI founded Lembaga Bela Banua Talino; and in East Kalimantan some 'educated' Dayak backed by YLBHI (Legal Aid Society Foundation) founded Lembaga Bina Benua Puti Jaji. A network of indigenous peoples' organizations and indigenous NGOs known as Baileo Maluku formed in Central and Southeast Moluccas; and in West Papua young lawyers established LPPMA (Lembaga Pengkajian dan Pemberdayaan Masyarakat Adat). [10] In 1996 and 1997, the first two regional indigenous peoples' organizations – one in West Kalimantan and another in East Nusa Tenggara – were established. Meanwhile, a number of NGO networks dedicated to indigenous peoples' issues were founded, as Jakarta, Bogor, and Bandung-based human rights, agrarian and environmental NGOs took up the indigenous peoples' cause.

As the indigenous peoples' movement was making organizational gains, Suharto's authoritarian regime fortuitously fell in 1998, providing greater political space for civil society organizations to operate. It was in this political context that the aforementioned KMAN I was organized.

Dozens of regional and local meetings of indigenous leaders and activists were held to help prepare for KMAN II, which was held in September 2003 on Lombok. AMAN members are obliged and have the right to attend

national congresses; they can appoint one or more persons to represent their respective community. Either indigenous communities or local and regional indigenous organizations can be AMAN members. As of August 2003, the organization had 927 registered communities, 777 of which were verified members. Another 18 local and 11 regional indigenous organizations are allied with AMAN. More than a thousand representatives attended KMAN II, where organizational decisions made during the 1999 congress were implemented. Taking into account the ever-changing broader political context, participants also reflected on the progress of indigenous organizational capacity, performance, struggle, and achievements since KMAN I.

KMAN II's main goals were: first, to draw lessons learned from implementation of the decisions of the first congress over the past four years; second, to consolidate organizations of indigenous peoples and to develop a synergy between all indigenous actions at regional levels; third, to mobilize broad-based support for the indigenous peoples' movements through strengthening and broadening alliances with other pro-democratic groups; fourth, to develop organizational structures more responsive to all developments and more effective in serving their members; and, fifth, to sharpen the platform of the movements by developing strategic guidelines for organization and programmatic frameworks that accommodate the aspirations and demands of indigenous peoples in Indonesia (IWGIA 2004: 243). Collectively, these goals aim to create broader space in which the indigenous peoples' movement can flourish and to enact social transformation in Indonesia. KMAN II also produced some important results with respect to the restructuring of its 56-member national council, advocacy areas and regional coordinators,[11] organizational bylaws, political resolutions, and basic programmes.[12]

In addition to multi-level domestic co-ordination, AMAN has also forged linkages with international indigenous peoples' organizations. It has entered the Asia Indigenous Peoples Pact and, during the United Nations' World Summit on Sustainable Development and its 2002 preparation meetings, it joined the Indigenous Peoples' Caucus (Moniaga 2003). AMAN also has worked closely with the International Working Group on Indigenous Affairs (IWGIA) to buttress support of their work and initiate joint international advocacy. In addition, AMAN facilitates participation in international forums and networks.

Criticism: internal and external

AMAN as a vehicle for indigenous peoples' empowerment is not a panacea. The organization is but a part of a process to develop the necessary tools for indigenous peoples to empower themselves and to struggle collectively. Such efforts, however, have been subject to both internal and external criticism.

Following KMAN I, AMAN's board of representatives met every six months to reflect on the organization, to discuss new issues, and to plan

further activities. At its April 2001 meeting, issues raised included the reality that different indigenous peoples' organizations had different needs; that AMAN's secretariat must not be seen as the peoples' saviour (*dewa penyelamat*); and that masyarakat adat issues should not be used as a ploy to revitalize feudalism (AMAN et al. 2001: 4). Each indigenous community has its own history and different social, economic and political realities, and the fact is that some have retained quite strict hierarchical social structures. AMAN's founders and related advocates intend to support indigenous peoples to be a positive force in Indonesia's democratization process. To be sure, some indigenous nobles seek personal gain out of reviving their old positions that contravene democratic principles. Simply put, adat revitalization can lead in different directions and be used for different purposes by different communities. In reality, AMAN has to face internal difficulties that result from some community leaders or individuals working within AMAN in pursuit of personal interest (IWGIA 2003: 251).

In 2001 in co-operation with the World Agro-Forestry Center and the Forest Peoples Program, AMAN challenged itself on its own controversial statement: 'If the state does not recognize us, then we will not recognize the state'. This declaration has not only challenged the government to respond to indigenous demands but it has also stimulated a fertile and much-needed debate inside indigenous communities on what kind of recognition they seek from the government. If the state does not recognize indigenous rights, for example, how exactly will the communities in question exercise these rights? How should national laws be shaped to accommodate the diversity of customs and aspirations of the country's five hundred different ethno-linguistic groups? What kind of legal recognition of land rights are communities seeking? Who will negotiate on their behalf? How will communities govern themselves? The exercise was aimed to facilitate more in-depth discussions and clarify AMAN's demands.

External criticisms of the movement vary. Most in the private sector continue to ignore the plight of indigenous peoples. Some, however, have begun to recognize their existence and have instituted charitable and development programmes. Here the new catchphrase is 'social corporate responsibility'. One example is the responses of the members of the Indonesian Forest Companies Association in West Papua and East Kalimantan. This includes accepting adat sanctions from local villagers as masyarakat adat ('Rekapitulasi konflik sosial di Indonesia' 2000: 15–17). Some companies complain of exploitation by people claiming to be indigenous peoples, despite the uncertainty of their indigenous status. That more than one party often demands compensation also compounds the problem.

Strong criticism also has come from feminist circles internal and external to AMAN. They fear that adat revitalization may strengthen the patriarchal cultures of indigenous societies. In response to this concern, at KMAN I a workshop entitled 'Women's Rights and Masyarakat Adat' was convened and, as a result, women participants have become well organized and

recognized by male participants. That AMAN's board is required to have one male and one female representative from each province (Papua gets two men and two women) is a positive step. The board does not hold sway at the local level, however. Few indigenous communities consider gender inequality a serious problem. In response, advocacy campaigns have been mounted in Central Sulawesi (under the leadership of Toro women) and in West Kalimantan. Male-dominant adat communities remain the norm in Sumatra, Kalimantan, West Papua, Java, and elsewhere.

Tensions between masyarakat adat and other local communities arise in some areas. In Papua problems have taken on racial dimensions. The discriminatory policies of the Suharto regime and condescension shown by migrants toward the indigenous peoples of Papua lie at the roots of the problem. In response, there have been recent instances of Papuans kidnapping and killing Javanese migrants. Mass violence committed against migrant Madurese by Dayaks in West and Central Kalimantan provinces remains a particularly disturbing case of relations between migrants and *masyarakat adat* and gone awry. Neither has Central Sulawesi been free of similar dynamics and tensions.

Which way is law reform heading?

The aforementioned developments, coupled with the reformasi (reform) movement, have stimulated a new perception of indigenous peoples by certain government officials, parliamentarians, academics, business people, and NGOs. Importantly, there has been a growing recognition of the existence of indigenous peoples by government and parliament both at the national and local levels, although it remains largely symbolic in nature. Such symbolic recognition can be found in new amendments to the 1945 Constitution, in some new laws and in draft bills. Unfortunately, recognition has not necessarily led to a change in attitude for most of the state apparatus, which in many respects has maintained the same repressive approach Suharto's regime displayed. While there were indications during 2000 to 2002 that the state was willing to show more respect for its peoples, including indigenous peoples, some human rights violations did once more occur in 2003 (IWGIA 2004: 236).

The process of amending the 1945 Constitution that took four years (1999–2002) to complete was criticized by various parties for being undemocratic. Amendments on land and indigenous peoples issues are found in articles 18b, 28, and 33. Except for recognition of the existence and the rights of traditional society (which may be interpreted as indigenous peoples or tribal people) in articles 18b[13] and 28i,[14] the recognition of property rights (art. 28), and the formulation of agrarian issues (art. 33(3)) remain unchanged from the 1945 Constitution. The latter, which is the foundation of land and other natural resources policy, was not changed substantively. Besides amending the Constitution – and in addition to the decree high-

lighted in this chapter's introduction – the MPR enacted a decree (no. 11) that touched on the rights of indigenous peoples over agrarian and natural resources, legal pluralism, and human rights which are mandated as the new foundation for the reform of agrarian and natural resources laws and policies.

The MPR's new perspective has been reflected in executive and legislative bodies. The Ministry of the Environment, for instance, under pressure from NGOs and academics, initiated the drafting for a law on natural resource management. In 2000 it established a drafting team comprising government officials, academics, and NGO representatives to accommodate different perspectives.[15] The team also encouraged relatively broad public consultations over the law's drafting, which recognized indigenous rights over ancestral lands and other natural resources (Suwarno et al. 2004). The draft, which also recognizes the necessity for free and informed consent of indigenous peoples, caused internal government fissures. It had the support of the National Land Board, the Agriculture Department, and the Human Rights and Justice Department, but drew fierce opposition from the Forestry Department and its Energy and Mineral Resources counterpart.[16]

In response to pressure emanating from local, national, and international levels, parliament (DPR) and President Megawati Soekarnoputri enacted Law no. 21/2001 on Special Autonomy for the Papua Province (formerly known as Irian Jaya). Although some Papuans demanded independence, the law's recognition of the province's indigenous peoples, their collective and individual rights over adat lands, their human rights, and the creation of a Papuan People's Assembly (MRP) as a high-level, provincial government institution satisfied others. Before the law could be implemented, however, President Megawati issued a presidential instruction in 2003 to speed up the split of Papua province into three provinces, creating confusion and anger among Papuans. The instruction was issued on the basis of another law (no. 45/1999 on the same subject) that was passed during the Habibie administration. Fights over the issue ensued. Meanwhile, in November 2004, in a case brought by the chair of the Papuan parliament, the Constitutional Court in Jakarta ruled that law no. 21/2001 superseded law no. 45/1999, thus making the latter unconstitutional. The court also concluded that all government measures put in place for the split of the province – including the formation of new districts with their own legislative assemblies (DPRD) – should remain.

Controlling almost 70 per cent of the total land area of Indonesia, the Forestry Department is powerful. In May 2003 in a public meeting held in Yogyakarta, its Secretary-General announced that:

> in the near future, there will be no new policies that will accommodate transfer of forestry land to the ownership local communities. They are allowed to utilize and harvest forest products through social forestry programmes (on a limited-term basis). This is because of what happened

> in Jambi, where the land owners sold the redistributed lands within five years; the community never became the lords of their lands.
>
> Keynote Speech (2003: 5)

Nor does the department have any intention to review or reform the heavily criticized Forestry Law no. 41/1999 that fails to recognize indigenous peoples' rights and continues the tradition of state control of forestlands. Ignoring the aforementioned MPR Decree no. 9/2001, President Megawati pushed a new law (no. 19/2004) through parliament that legalizes mining permits within conservation and protected forest areas that were issued prior to law no. 41/1999.

The National Land Board (BPN), which has *de facto* limited power to control the remaining 30 per cent of land outside Forestry Department jurisdiction, has displayed a different attitude. In 1999 the Agrarian State Minister – concurrently the BPN chair – issued a regulation (no. 5) on 'Guidelines for Solving the Problems of Indigenous Communal Land Rights of Customary Law Communities'. And in 2003 a presidential decree (no. 34) mandated BPN to facilitate revision of the BAL. Nevertheless, the same decree also recentralizes some authority over land administration, which contravenes the spirit of Indonesia's historic decentralization laws passed in 1999.

All things considered, legal development in resolving conflicting land tenure systems between indigenous peoples and the state has been lethargic. Constitutional amendments and MPR decrees that acknowledge underlying factors and that recommend resolutions remain shallow political statements. They merely recommend that reformulation of laws and bills on natural resources and citizens' rights include articles on indigenous peoples. This has included bills on natural resource management; coastal and small island management; plantations; mining; genetic utilization and preservation; revised laws on fisheries and the criminal code; and proposed amendments to laws on population and family prosperity development, forestry, and education. These pieces of legislation recognize indigenous peoples and some of their rights, although most still contain some conditionality. Most importantly, none is designed to resolve conflicts of contrasting land tenure systems.

At another national institutional level, a joint effort to develop alternative mechanisms for resolving land and other natural resources conflicts has been initiated by the National Human Rights Commission (Komnas HAM) in collaboration with a number of NGOs. One idea has been to explore the possibility of establishing a National Commission for Agrarian Conflict Resolution ('Laporan Ringkas' 2004; *Kompas*, 15 March 2004). In December 2003 a working group was established. Komnas HAM is aware that agrarian conflicts are too numerous and complicated to be handled by themselves, but require a special body with a clear mandate to allow for more comprehensive and effective conflict resolution. The working group

had prepared the legal review and academic drafts; it held a series of public consultations too. Komnas HAM and the other NGO representatives had also met with Presidents Megawati (July 2004) and Yudhoyono (March 2005) to discuss the possibility of establishing the commission. A formal request sent by Komnas HAM to President Yudhoyono on 7 July 2005 was turned down by the State Secretary. A letter dated 25 October 2005 stated that existing laws and institutions could adequately handle the country's agrarian problems.

Alternative directions in the regions: 1999 onwards

The fall of the heavily centralized, authoritarian New Order regime has ushered in a wave of decentralizing reforms and measures. Although a number of regional administrations continue the New Order tradition of conditional recognition for indigenous communities and their rights, under the banner of decentralization, some have sought to pass more responsive regulations. New regional regulations (or drafts thereof) concerning indigenous peoples can be classified according to whether it refers to: first, indigenous governing structures; second, *tanah ulayat* or indigenous communal lands; third, *hutan ulayat* or customary forests; or, fourth, community-based natural resources management.

An Internal Affairs ministerial decree (no. 64 /1999) on General Guidelines for Village Government – later superseded by decree no. 76/2001 – set in motion the process of delimiting and restandardizing village government in Indonesia, an abrupt reversal of the letter and spirit of the 1999 Law on Regional Government entrusting village communities to manage their own affairs. The new regulation stipulated, first, the particular elements that comprise village government; second, procedures for electing and appointing village officials; third, specific duties and responsibilities of village governments; and, fourth, requirements to produce village regulations. The ministerial decree also instructed district governments to produce a set of regulations on village government in their respective districts (Simarmata and Masiun 2001). These moves toward restandardizing village government have been countered by initiatives taken by villagers in West Sumatra, Bali, and Tana Toraja district (South Sulawesi), which aim to promote indigenous village governance. In Sanggau, West Kalimantan, hopes were raised when the district assembly enacted a regional regulation on indigenous (*kampong*) governance. But the substance of the regulation was not in accordance with local conceptions of kampong.[17]

In 1999 the Agrarian Ministry issued guidelines for regional regulations pertaining to the recognition of tanah ulayat or indigenous communal lands. To date, there are only two relevant regional regulations – one in Kampar district (Jambi), the other in Lebak district (Banten).[18] Controversy over a regional regulation draft has raged in Pasir district, East Kalimantan. In

December 2003 the Pasir district administration submitted twelve proposed regulations to the regional parliament, one of which was on the hak ulayat of local indigenous peoples. The proposed regulation controversially stipulates that no communities within its jurisdiction met the criteria for recognition as indigenous peoples; accordingly, there was no indigenous communal land in the district. This conclusion was based on research carried out by the University of Hasanudin (Makassar) that had been commissioned by the Pasir administration (IWGIA 2004: 238–9).

Recognition of indigenous customary forests at the regional level has a longer history than at the national level. The Forestry Minister issued a favourable decree (no. 47) in 1998 for the Krui people in West Lampung (Jambi); yet local governments in Jambi had produced regional regulations explicitly recognizing indigenous customary forests as early as 1992, as part of the Kerinci Seblat National Park's Buffer Zone Management programme. Ten years later, the district head of Bungo issued a similar decree (no. 1249/2002) recognizing an 800-hectare customary forest in Batu Kerbau village. And in June 2003 the Merangin district head gave legal recognition to a larger customary forest in Sungai Manau sub-district. Elsewhere, too, progress has been made. In 2003 the West Kutai district government (East Kalimantan) passed a regional regulation on community forest management, which recognizes indigenous peoples' rights to forest resources.

Moreover, discussions and negotiations between communities and local governments over regulations that acknowledge and protect local adat rights are ongoing. Some initiatives include the Dayak Pitap peoples in South Kalimantan, Enggano communities in Bengkulu, the peoples of Biak Island, West Irian Jaya, the Seko people of South Sulawesi, and Benung communities in East Kalimantan (Simarnata and Masiun 2001: 10).

While there are some promising new regulations that recognize indigenous land tenure and governance systems, there are others that do not. Under the New Order, natural resource exploitation and revenue collection were centrally controlled, while in the reform period partial control has been surrendered to provincial and district governments. Meaningful democratization, however, is difficult while the reform process remains in the hands of state actors. In this context, many local regulations have simply enabled regional government to collect more revenues from natural resource exploitation and related services. The process of decentralization and democratization to the level of indigenous communities, recognizing their rights and institutions, has yet to be realized.

A beautiful tapestry or an ugly mess?

Tensions between masyarakat adat and the Indonesian state date from colonial times. Killings, land grabbing and other forms of violence are manifestations of unresolved conflicts, many of which derive from contrasting

perceptions of the utility of land and systems of law. Is a comprehensive and just resolution possible? Do the parties in question have any genuine intention to achieve this?

The way in which the term indigenous peoples is perceived today differs from that in Indonesia's immediate post-independence period. Then, as a legacy of colonial rule and law, the term used was a translation of *bumiputera* and *pribumi*. The plethora of such terms used by the state in the post-independence era, such as *masyarakat hukum adat*, *masyarakat terasing*, *masyarakat tradisional*, and *masyarakat adat terpencil* accurately reflects the state's incoherence in dealing with indigenous peoples. Many land and natural resource conflicts today can be traced to New Order laws like those on forestry and mining that undermined the customary land rights of indigenous peoples. Coming to understanding their weak position, some indigenous peoples began organizing with support of external advocates to gain better bargaining positions. Have they benefited? What stand should indigenous peoples take *vis-à-vis* growing global concerns on human rights, democracy, gender equality and the state's role in these issues? Is the term *masyarakat adat* clear and sufficient to be used to achieve the movement's ends? How can the law be used in supporting local and national struggles?

Meanwhile, given the wide-ranging reform movement, decentralization, and increasingly competitive electoral politics, Indonesia is as fractured today as it has been in recent memory. An array of confusing and conflicting actions by the state confirms such a view. At the regional level, some districts have taken initiatives to alter perceptions toward indigenous peoples, including the status of indigenous land rights. Does this development reflect a new diversity of perspectives or a confused state? Is the constitutional recognition of indigenous peoples substantive enough to rectify colonial and postcolonial wrongs toward indigenous peoples? Although some districts are seemingly adopting accommodating viewpoints, their number still remains small, perhaps 10 out of 360 rural districts. Certainly, there is room for the central state and its regional counterparts to develop more responsive positions.

Reconciling resource conflicts between indigenous peoples and the state is analogous to weaving a tapestry of many colourful threads of different materials. It may become beautiful and fascinating to behold or conversely remain in its 'state of nature' as discrete materials, never coming together. Worse, it can clash to become an ugly piece of work. The diversity of indigenous land tenure systems in Indonesia should be taken as the colourful threads. The environmentally friendly land tenure systems of some indigenous communities can contribute to agrarian and environmental law development. Land tenure systems constitute a part of the totality of an adat system, many of which have been identified since the colonial period. Indigenous peoples have been demanding recognition of their adat, including governance and land tenure systems. Initial efforts were sporadically seen in the 1980s and by the 1990s had became more co-ordinated. Ultimately, the

question remains, what room is there to accommodate these pluralistic land tenure systems with state land and natural resource law? This question, and many others like it, require further study; in the meantime, we need to halt ongoing conflicts and attendant human rights violations for the sake of respecting humanity.

Notes

1 The term *volksgemeenschappen* can be found in the explanation of article 18, point (II).
2 Analysis of the concept *volksgemeenschappen* and the 'rights to origin' can be found in Zakaria (2000: 33–87).
3 This term is the literal translation of the Dutch *rechtsgemeenschappen*.
4 Some rights regulated by the BAL are: ownership (*hak milik*); exploitation (*hak guna usaha*); building (*hak guna bangunan*); use (*hak pakai*); lease (*hak sewa*); opening up land (*hak membuka tanah*); and collecting forest products (*hak memungut hasil hutan*).
5 There is no legal document that produced this division of jurisdiction between the BFL and the BAL, but the empirical situation strongly shows the division. According to Martua Sirait of ICRAF (2004), the 'legal basis' for the division is a joint memo (administrative agreement) between the Ministers of the Forestry and Agriculture Departments that was signed in the 1980s. Also see Wallace (2000).
6 The Krui's agroforest system (*repong damar*) has been subject to intensive study. In this case, the NGOs were Watala Lampung and LATIN; the research institutions ICRAF, CIFOR, P3AE-UI, and Lampung University.
7 AMA Kalbar is the Indigenous Peoples Alliance of West Kalimantan; JKPP, the Participatory Mapping Network; and JAPHAMA, the Network of Indigenous Peoples' Rights Advocates.
8 For more specific cases see Yas (2003); Broek et al. (2001); Alcorn (2000); IWGIA (2000); and Down To Earth (1998a, 1998b, 2003).
9 Among the indigenous leaders were Nai Sinta (North Sumatra), Petinggi Aris (West Kalimantan), L.B. Dingit (East Kalimantan), Den Upa Rombelayuk and Sombolinggi (Tana Toraja), Oom Ely (Haruku) and Tom Beanal (Papua). Activists included Saur T. Situmorang (North Sumatra), Hedar Laudjeng (Central Sulawesi), Zadrak Wamebu (Papua) and Ngurah Karyadi (Bali). I participated in the meeting as a WALHI representative.
10 Owing to limited space and limited knowledge on the part of the author, many similar institutions are not mentioned here. There is no intention to undermine their important roles in the regions and the issues.
11 At KMAN II, AMAN's advocacy areas were divided into seven regions, each headed by a council co-ordinator: Sumatra, Java, Kalimantan, Bali–Nusa Tenggara, Sulawesi, Moluccas, and Papua.
12 Programmes to be executed in the 2003–6 period are: advocacy on the recognition of indigenous peoples' rights; revitalization of adat governance and judiciary systems as the socio-political and jurisdictional authorities in indigenous communities; promoting adat values and norms; women's participation in policy and decision-making processes; natural resource management; and education.

13 This article uses the terms *masyarakat hukum adat* (customary law community) and *hak-hak tradisionalnya* (tradtional rights). But the MPR website (<http://www.mpr.go.id>) translates *masyarakat hukum adat* as 'traditional society' (accessed 5 February 2003).
14 Here the term used is *masyarakat tradisional*, translated as 'traditional society'.
15 The author was one of the official members of this team. Decision-making, however, takes place on various levels, including inter-departmental meetings and at the State Secretary's office before the draft can be presented to parliament for further discussion.
16 As of March 2006, the draft remained 'buried' in the office of the State Secretary.
17 See the statement by *Kelompok Kerja Masyarakat Adat* (2003).
18 See <http://www.huma.or.id> (accessed 14 March 2006).

References

Alcorn, J. (2000) 'An introduction to the linkages between ecological resilience and governance', in J.B. Alcorn and A.G. Royo (eds) *Indigenous Social Movements and Ecological Resilience: lessons from the Dayak of Indonesia*, Washington, D.C.: Biodiversity Support Program.

AMAN, ICRAF, and FPP (2003) *In Search of Recognition*, Bogor: AMAN, ICRAF (World Agroforestry Centre), and FPP (Forest Peoples Program).

AMAN, KPSHK, JAPHAMA, JKPP, ELSAM, and ICRAF (2001) 'Catatan refleksi gerakan masyarakat adat', Ciawi: AMAN *et al.*, 8–9 April.

Bachriadi, D. and Lucas, A. (2002) 'Hutan milik siapa? Upaya-upaya mewujudkan forestry land reform di Kabupaten Wonosobo, Jawa Tengah', in A. Lounela and R.Y. Zakaria (eds) *Berebut Tanah: beberapa kajian berperspektif kampus dan kampung*, Yogyakarta: INSIST Press.

Broek, Theo P.A. van den, Korain, F., and Lumbangaol, G. (2001) *Memoria Passionis di Papua: kondisi sosial politik dan hak asasi manusia gambaran 2000*, Jakarta: Sekretariat Keadilan dan Perdamaian, Keuskupan Jayapura and Lembaga Studi Pers dan Pembangunan.

Down To Earth (1998a) 'The push for indigenous rights', Newsletter 36, February. Online. Available: <http://dte.gn.apc.org/36ind.htm> (accessed 2 March 2006).

—— (1998b) 'Towards ecological justice in Indonesia', Newsletter 38, August. Online. Available: <http://dte.gn.apc.org/38Tow.htm> (accessed 2 March 2006).

—— (2003) 'Thousands protest reopening of Indorayon pulp plant', Newsletter 56, February. Online. Available: <http://dte.gn.apc.org/56tpl.htm> (accessed 2 March 2006).

Fitzpatrick, D. (1997) 'Disputes and pluralism in modern Indonesian land law', *The Yale Journal of International Law*, 22(7): 171–212.

Hartono, S. (1979) *Dari Hukum Antar Golongan ke Hukum Antar Adat*, Bandung: Penerbit Alumni.

Harwell, E. and Lynch, O. (2002) *Whose Resources? Whose Common Good? Towards a new paradigm of environmental justice and the national interest in Indonesia*, Jakarta: CIEL, ELSAM, HUMA, ICEL, and ICRAF.

IWGIA (2000) *The Indigenous World 1992–2000*, Copenhagen: IWGIA.

—— (2003) *The Indigenous World 2002–2003*, Copenhagen: IWGIA.

—— (2004) *The Indigenous World 2003–2004*, Copenhagen: IWGIA.

Kartohadiprodjo, S. (1976) *Pancasila dan/dalam Undang-undang Dasar 1945*, 2nd edn, Jakarta: Binacipta.

Kelompok Kerja Masyarakat Adat (2003) 'Pemberitahuan diadakan perkara adat berkaitan Perda Nomor 4 tahun 2002', Sanggau: Kelompok Kerja Masyarakat Adat, 19 August.

Keynote Speech [of the Secretary-General of the Department of Forestry] (2003), presented at the MFP-DFID Multi-Stakeholder Dialogue, 'Membangun Kontrak Sosial Baru untuk Pengurusan Hutan Indonesia. Menghapus Kemiskinan dan Melestarikan Hutan', Yogyakarta, 24–5 March.

Kingsbury, B. (1998) '"Indigenous peoples" in international law: a constructivist approach to the Asian controversy', *American Journal of International Law*, 92: 414–57.

'Laporan Ringkas Lokakarya Persiapan Menuju Pembentukan Komisi Nasional untuk Penyelesaian Konflik Agraria' (2004), Banten: National Commission for Agrarian Conflict Resolution (KNUPKA), 13–14 January.

Laudjeng, H., Moniaga, S., and Simarmata, R. (2001) 'Antara sistem penguasaan berbasis masyarakat dan sistem penguasaan berbasis negara di "Kawasan Hutan" di Indonesia: studi kasus dari delapan lokasi', paper presented at the workshop 'Lokakarya Penguasaan Lahan di Kawasan Hutan dan Pembentukan Kelompok Kerja Penanganan Masalah Penguasaan Lahan di Kawasan Hutan', Bogor, 27 November.

Moniaga, S. (1996) 'The indigenousness of the indigenous peoples in Indonesia: from whose perspective?', paper presented at Tenth INFID Conference on Land and Development, Canberra, 26–8 April.

—— (2002) 'Hak-hak masyarakat adat dan masalah serta kelestarian lingkungan hidup di Indonesia', *Wacana HAM*, 2(10): 7–8.

—— (2003) 'Cohesiveness in the democratization processes: an assessment on the impact of Ford Foundation support to the civil society in Indonesia in the WSSD Processes', Draft Report, Washington, D.C.: WRI.

'Rekapitulasi konflik sosial di Indonesia' (2000), *Hutan Indonesia* (Newsletter of Indonesian Forest Companies Association), 2(7): 15–17.

Sirait, M. (2004) personal communication, 22 February.

Sekretariat Negara RI (1995) *Risalah Sidang Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI), Panitia Persiapan Kemerdekaan Indonesia (PPKI), 28 Mei 1945-22 Agustus 1945*, 3rd edn, Jakarta: Sekretariat Negara RI.

Setyoko, I. (1998) 'Upaya pemerintah Indonesia dalam pembangunan masyarakat terasing', paper presented at a one-day UNDP/UNESCO Workshop on Indigenous Peoples, Jakarta.

Simarmata, R. and Masiun, S. (2001) 'Regional autonomy and the character of local government laws and regulations – new pressures on the environment and indigenous communities: a preliminary diagnosis', paper presented at the Ninth Biennial Conference of the International Association for the Study of Common Property, Victoria Falls, Zimbabwe, 17–21 June.

Simbolon, I.J. (1998) 'Peasant women and access to land: customary law, state law and gender-based ideology, the case of the Toba-Batak North Sumatera', unpublished thesis, Wageningen Agricultural University.

Slaats, H. (2000) 'Evolutionary change in Indonesian land law, tradition (adat) perspectives', Land Administration Project – Part C, Jakarta: Badan Perencanaan Pembangunan Nasional.

Stavenhagen, R. (1994) 'Indigenous rights: some conceptual problems' in W.J. Assies and A.J. Hoekema (eds) *Indigenous Peoples' Experiences with Self-Government*, Copenhagen and Amsterdam: IWGIA and University of Amsterdam.

Sunario (1974) 'Masalah kedudukan "pribumi" dalam pembangunan', in *Indonesia Kini dan Esok: himpunan ceramah dan prasaran-prasaran dalam musyawarah membina jiwa dan nilai-nilai 1945*, Jakarta: Lembaga Pembina Jiwa 1945.

Suwarno, H., Simarmata, R., and Ahmad, R. (eds) (2004) *Di Bawah Satu Payung – hasil Konsultasi Publik RUU Pengelolaan Sumber Daya Alam*, Jakarta: Tim Konsultasi Publik RUU Pengelolaan Sumber Daya Alam.

Suryomenggolo, J. (2003) *Hukum Sebagai Alat Kekuasaan (Politik Asimilasi Orde Baru*), Jakarta: Galang Press and ELKASA.

WALHI (1992) *Perjalanan Secarik Kertas*, Jakarta: WALHI.

Wallace, J. (2000) 'Indonesian land law in a nutshell', Indonesia Land Policy Reform, Special Topics, Jakarta: Bappenas-BPN. Online. Available: <http://www.landpolicy.org/special_topics/nutshell.htm> (accessed 8 January 2004).

Wignyosoebroto, S. (1994) *Dari Hukum Kolonial ke Hukum Nasional: suatu kajian tentang dinamika sosial politik dalam perkembangan hukum selama satu setengah abad di Indonesia (1840–1990)*, Jakarta: Raja Grafindo Persada.

Yas, A. (2003) *Menapaki Jejak Pejuang Hak Adat*, Seri Kumpulan Kasus 1, Pontianak: Lembaga Bela Banua Talino.

Zakaria, R.Y. (2000) *Abih Tandeh: masyarakat desa di bawah rejim Orde Baru*, Jakarta: ELSAM.

13 From customary law to indigenous sovereignty

Reconceptualizing masyarakat adat in contemporary Indonesia

Greg Acciaioli

> To strengthen the position and role of indigenous peoples in order to realize justice and popular democracy in the era of regional autonomy.[1]
>
> Motto for the Second Congress of Indigenous Peoples of the Archipelago (Kongres Masyarakat Adat Nusantara II, KMAN II or NIPC II)[2]

In many ways the motto for the Second Congress of Archipelagic Indigenous Peoples reflects the transition of the indigenous peoples' movement in Indonesia from an emphasis upon gaining government acknowledgement to operationalizing social and political articulation. The resounding call of the first congress had been the declaration, 'If the state will not acknowledge us, then we will not acknowledge the state [*Kalau negara tidak mengakui kami, kamipun tidak akan mengakui negara*]' (Down to Earth 1999: 3), echoed numerous times throughout the subsequent years. Indeed, the demand for acknowledgement (*pengakuan*) remained the leitmotif summarizing the various demands articulated by the leadership of AMAN (Aliansi Masyarakat Adat Nusantara, Alliance of Indigenous Peoples of the Archipelago) leadership in the context of the worldwide struggle of indigenous peoples for recognition of their rights, especially those over land and other natural resources (AMAN 2003: 13). However, despite this declaration providing a constant refrain throughout the second congress as well (and indeed always eliciting the choral response: *Hidup masyarakat adat!*, 'Long live indigenous people!'), this second congress sought to transcend the original call for recognition and focus on the practical problems of implementing programmes that would actually ensure not only such recognition but also respect and legal protection for the rights of Indonesian 'indigenous societies'.[3]

Such an orientation was evident in the objectives set forth in a document circulated at the second congress itself:

1 To review the process of implementing the first NIPC's decisions, both the failures and success stories, as inputs to empower and accelerate the indigenous peoples' movement in Indonesia.



Figure 13.1 Opening parade at the Second Congress of Archipelagic Indigenous Peoples (KMAN II), Tanjung, Lombok, 19–25 September 2003

2 To facilitate dialogues and negotiations among national political interests.
3 To consolidate indigenous peoples' movement in Indonesia as a component in the civil society to accelerate law enforcement upon indigenous people's rights as human rights, democratization and natural resource conservation.
4 To formulate the indigenous peoples' position and perspective on new setting of relationship between indigenous peoples and the state towards sovereignty and autonomy which lead to the indigenous peoples' welfare – includes their social, cultural, political, economic and religious aspects – in Indonesia.
5 To build up alliances with other pro-democracy and progressive reform organizations at the national and the international level to struggle together for bringing up the indigenous people's aspirations.[4]

Panitia Kongres (n.d.: 4–5)

As is evident in this list, besides mandating a review of the achievements of the previous four years, the conference organizers' aims emphasized such operational aspects as programme implementation, facilitation of dialogue with partner organizations and political figures, and the cementing of alliances with pro-democracy organizations.[5] Complementing this outward orientation toward relationships with other groups was an emphasis upon

internal consolidation of the movement itself, an attempt not only to bring more customary communities into the fold but to rationalize the process of verifying their membership and to build the linkages among intermediate organizations whose members would be responsible for reports to AMAN as an umbrella organization and for implementing its vision and mission (*visi dan misi*) – the bureaucratic idioms of modern enterprises were much in evidence at the congress through the construction of specific procedures to deal with local issues impinging on the rights of 'indigenous peoples'. Indeed, consolidation was also one of the major themes emphasized by local leaders at the regional congresses that led up to the second national congress, as for example articulated by the leader of the Alliance of Indigenous Peoples of Central Sulawesi (Aliansi Masyarakat Adat Sulawesi Tengah, AMASUTA) (interview with Ronny Toningki, June 2003).

Such foci also dominated the statement of specific outcomes expected from the congress:

1 Indigenous people's position and perspective on the development and future of the civil society's role is formulated.
2 Collective Action Plan in Nusantara Indigenous Peoples movement is formulated in more systematical [*sic*] and co-ordinated way.
3 Organizational structure and working mechanism of Nusantara Indigenous Peoples Alliance is improved in order to support a broader



Figure 13.2 Concluding demonstration at the AMASUTA provincial congress (Palu, 17–19 June 2003) in lead-up to KMAN II

indigenous peoples' political participation at the local, the regional, the national and the international level.
4 Mass media coverage concerning indigenous peoples' various issues at the national and the international level.
5 Information related to the existence and support for indigenous peoples throughout Nusantara Archipelago is well distributed through multi-media means, e.g. printed, audio-visual, etc.
6 Horizontal dialogues among indigenous peoples' supporters and other communities, such as press, professionals, artists, etc.[6]

Panitia Kongres (n.d.: 5)

At the more specific level of these outputs the emphasis upon creating discursive dialogues and practical alliances with other organizations is once again evident, but there emerges as well a concern with managing media coverage. Complementing these externally oriented activities is a focus upon such internal considerations as organizational structure and processes of information transmission across all levels of the participating organizations. Consolidation is to be realized through the formulation of a collective action plan, to be implemented throughout the various levels of members – from the ultimate units of 'indigenous peoples' communities' (*komunitas masyarakat adat*) through the regional alliances at both district (*kabupaten*) and provincial level.

Despite this emphasis upon practicalities, continuing concern with more generally phrased demands, particularly the call for the sovereignty (*kedaulatan*) of indigenous peoples, remains evident. This theme is most clearly articulated in the fourth objective of KMAN II, where it is clearly linked to the theme of local autonomy. However, the actual scope of this particular demand of the movement's agenda has remained one of the most problematic themes articulated by the movement.

Problems of delimiting constituencies in the indigenous peoples' movement

The first Congress of Indigenous Peoples of the Archipelago (KMAN I), held in Jakarta from 15 to 22 March 1999, had constituted a turning point in the mobilization of various 'traditional' societies throughout the archipelago to demand recognition of their rights and achievements from the national government. As noted above, this first congress's overriding concern with recognition or acknowledgement necessitated considerable groundwork. Delegates at the conference were particularly concerned to eliminate negative stereotypes of their societies and present an appropriate image that reflected their claims to local 'sovereignty'. Thus, they explicitly declared a rejection of such exonyms as 'wild dry-field cultivators' (*peladang liar*), 'wild cutters [of the forest]' (*penebang liar*), 'isolated tribes' (*suku terasing*), 'primi-

tive societies' (*masyarakat primitif*), and other terms declared derogatory constructions of the New Order. The handbook subsequently issued by the secretariat of AMAN, which was instituted by this first congress to serve as an umbrella organization for the member organizations that would formulate specific programmes to carry out its demands, continued this emphasis upon proper recognition, adding to the list of terms not admissible – for instance, 'shifting dry-field cultivators' (*peladang berpindah*) and 'susceptible societies' (*masyarakat rentan*) – in a proper acknowledgement by government authorities, academics, and other parties (AMAN n.d.a: 2). KMAN had affirmed in a press release the definition of a 'customary society' (*masyarakat adat*), the endonym of choice, that had first been put forth as a working definition at a workshop of the Network for the Defence of Customary Societies (Jaringan Pembelaan Hak-Hak Masyarakat Adat) in Tana Toraja in 1993:

> social groups that have ancestral origins (which have persisted for generations) in a specific geographical region, along with possessing a value system, ideology, economy, politics, culture, society and region [territory] of their own.[7]
>
> KMAN (1999b)

This definition of the desired label for reference was subsequently revised in minor but significant ways by the AMAN secretariat to accommodate the new vocabulary in terms of which the new organization was developing:

> communities that live on the basis of their hereditary ancestral origins in a specific customary territory, that possess sovereignty over their land and natural riches, whose socio-cultural life is ordered by customary law, and whose customary institutions manage the continuity of their social life.[8]
>
> AMAN (n.d.a: 1)

Most significant in this rewording from the original definition was the explicit assertion of sovereignty (*kedaulatan*) over land and natural resources, as well as the explicit allusion to the ordering of local social life by customary law (*hukum adat*), thus establishing a relationship of realization between the exercise of sovereignty and the local operation of customary law within the specified territory of the communities. Indeed, the use of the term communities (*komunitas*) was itself significant, as 'communities' were now taken as the basic member units of the organization.

Yet the very ambiguity in what can be acknowledged as communities of indigenous peoples underlines some of the basic problems to be faced in asserting the exercise of sovereignty. The basic organizational guidelines for AMAN (n.d.a: 20) recognize several categories of membership. These include provincial-level organizations representing indigenous peoples, such

as AMASUTA in Central Sulawesi, and at a lower level similar alliances at both the level of the district (*kabupaten*) and of the cultural-historical regions of alliance of various groupings. However, at its most basic level of constituency (*tingkat basis*) it is the communities (*komunitas*) of indigenous people that serve as the core units. Such communities are defined as follows:

> A member of AMAN is the group of inhabitants (community) of a customary society ('indigenous people') that owns a distinct customary territory, a legal system and set of customary institutions with its own exclusive quality, and has declared itself and been accepted officially as being a member of AMAN.[9]
>
> AMAN (n.d.a: 21)

Almost as if priding itself on its flexibility, AMAN specifies that such 'communities' may range from a single village of a couple of thousand inhabitants to a larger alliance of villages or even an entire ethnic group numbering twenty thousand members or more. But this flexibility also hides a considerable variation in what types of communities can be seen to fulfil these criteria. Table 13.1 indicates the variation across provinces in number of 'communities' applying for membership in AMAN, numbers accepted, and the distribution of the latter across the kabupaten in most provinces. That last column, showing the range of variation in the numbers of kabupaten represented across provinces (1 to 12), indicates in rough fashion different types of criteria of inclusiveness across these regions. In some provinces efforts have been made to gain members from across the province (Central Sulawesi is one example, Jambi may well be another), but in others only members of certain peripheral groups within the province have either shown interest or been considered eligible for certification. For example, within South Sulawesi all the districts represented – Mamasa, Toraja, Majene, Polewali, Luwu Timur, Luwu Utara, and Kota Palopo – fall in a band across the northern edge of the province. None of the kabupaten representing the heartland of the two majority ethnic groups in the province, Bugis and Makassarese, is represented.[10] Similarly, all the kabupaten represented among the Central Kalimantan communities, ranging from Murung Raya in the north to Barito Selatan in the south, are located only along the Barito River, the easternmost region defined by a river catchment (*daerah aliran sungai*) in the province.[11] None of the Ngaju in catchments located to the west has been listed as a member, nor have any communities of Banjarese or other coastal Malay groups.

Judging from my attendance at the two preliminary provincial-level congresses held in Central Sulawesi and South Kalimantan, one of the interesting dimensions of contrast between these two provinces regards the scope of societies included within the ambit of the term masyarakat adat. The organizations within the AMAN network in Central Sulawesi, most prominently AMASUTA, work with a very inclusive notion of

masyarakat adat. Representatives at the AMASUTA Congress included not only rural communities with functioning adat councils but also urbanites from the city of Palu itself. Answers to my enquiries as to what were the criteria that constituted masyarakat adat indicated that what was crucial was the attitudinal variable: a willingness to guide one's life in accordance with the guidelines put forth by elders who were regarded as indigenous guardians of the rules of the land. Even migrants, such as Bugis from South Sulawesi, who showed a willingness to submit themselves to these guidelines, could come to be considered as members of masyarakat adat. Socio-economic status, urban or rural residence, and distance from place of birth were largely irrelevant in comparison to the attitudinal variable. Such an emphasis thus fosters a very inclusive definition of masyarakat adat, one that may even be at odds with the AMAN definition given above.

In contrast, in South Kalimantan a much more exclusive delineation of masyarakat adat was in operation. At the provincial congress I briefly attended, only local communities that considered themselves as covered by the super-ethnic term Meratus were included within the scope of masyarakat adat. For example, Banjarese were explicitly excluded from this status. Such a pattern of exclusion contrasts significantly with Central Sulawesi, where urban Kaili from Palu were still considered as members of masyarakat adat as long as they acknowledged the hegemony of adat.

Hence, the scope of the delegation to the second AMAN congress from Central Sulawesi included representatives from throughout the province, stretching from Toli-Toli and Mouton in the west to Banggai in the east. Admittedly, there were some exceptions, most saliently the lack of any Pamona representatives from the Poso area, a region in which AMASUTA has not made any inroads, in part owing to the obstacles posed by communal violence, but in part perhaps owing to other strategies of representation for their interests followed by Pamona elders.[12] In contrast, the Central Kalimantan delegation adhered to the pattern also seen in South Kalimantan. While the South Kalimantan delegation consisted almost exclusively of Meratus people from the northern part of that province, the Central Kalimantan delegation was dominated by the ethnic groups of the Upper Barito (such as Ma'anyan), with little or no representation of Ngaju groups from the central and western parts of the province and no Banjarese from the south, hence adhering to the pattern summarized in Table 13.1. This pattern is linked to the sitting of the office of AMAD (Aliansi Masyarakat Adat Dayak, Alliance of Dayak Indigenous Peoples) in this upper Barito area rather than in the provincial capital of Palangkaraya. But geographical location is not in itself the reason for this contrastive pattern of delimitation of masyarakat adat.

In part, such contrasting patterns of delimitation also stem from the strategies used by various ethnic groups to gain recognition of adat claims. The Ngaju of the areas surrounding Palangkaraya and the river basins to the west (Kahayan, Katingan, Seruan, and others) have largely used an

Table 13.1 Communities of indigenous people (*komunitas masyarakat adat*) that have applied for recognition and have been verified, and their distribution across districts

Province/region	*Applied as candidate members*	*Verified and accepted as members*	*Number of districts covered by verified members*
Papua Barat	63	30	5
Maluku	16	16	2
Maluku Utara	2	2	*
Nusa Tenggara Timur	26	22	8
Nusa Tenggara Barat	76	67	7
Bali	0	0	0
Sulawesi Tengah	86	81	10
Sulawesi Tenggara	1	1	1
Sulawesi Selatan	114	109	9
Gorontalo	0	0	*
Sulawesi Utara	25	15	6
Kalimantan Timur	33	27	*
Kalimantan Selatan	34	30	4
Kalimantan Tengah	86	71	5
Kalimantan Barat	102	87	8
Jawa Timur	6	6	**
Jawa Tengah	6	6	**
Jawa Barat	21	21	**
Banten	3	3	**
Lampung	1	1	1
Bengkulu	21	15	5
Sumatera Selatan	15	14	5
Bangka-Belitung	0	0	0
Jambi	37	25	12
Riau	38	29	7
Sumatera Barat	1	1	1
Sumatera Utara	23	23	*
Aceh	88	74	10
TOTALS	925	777	

Source: compiled from the appendices of the Basic Statutes Plan of the Alliance of Archipelagic Indigenous Peoples [Rancangan Anggaran Dasar Aliansi Masyarakat Adat Nusantara] (AMAN n.d.b). Some of the information necessary for determining the number of districts represented in each province was not available in this document.

Notes
* Information not available.
** Seventeen for Java as a whole.

'officializing strategy' to advance their claims for recognition of adat. That is, they have sought to create within the government hierarchy itself a number of offices that seek to legitimize adat as a part of local administration. Crucial to this strategy is the status of the *damang*, the adat official in charge of adjudicating disputes over a region that in most cases duplicates

that of the sub-district (*kecamatan*). The damang in these regions is seen as a 'helper' (*pembantu*) of the sub-district head (*camat*), who gives official recognition to the decisions reached by this adat functionary. Political leaders vying for office at higher levels have sought to incorporate adat within government regulations. Such an officializing strategy is, of course, in keeping with the history of the formation of Central Kalimantan, which was originally conceived as a homeland for the Dayaks in which they could seek autonomy from domination by the Banjarese and other coastal Islamic societies that dominated the political life of the formerly much more extensive South Kalimantan in which they had been included (following the administrative division that the Dutch had earlier used in colonial times).

In contrast, the network of AMAN organizations, including AMAD, has employed an oppositional rather than an officializing strategy. The peoples working under this aegis seek recognition or acknowledgement (*pengakuan*) of their adat claims not as part of official governmental structures but as a parallel form of 'sovereignty' (*kedaulatan*) whose adherents' rights need to be guaranteed. Such an oppositional strategy is advanced by the more peripheral peoples (including the Meratus in South Kalimantan) whose representatives thus dominate the local AMAN network of organizations.

Similar components shape the scene in Central Sulawesi, but they are arranged in different patterns. In Central Sulawesi the provincial government has sought to erect its own organizations to regulate the place of adat in local politics, the Customary Council of Seven Realms (Dewan Adat Pitunggota), based on the seven (largely lowland) realms that had allied themselves before the decisive Dutch takeover in the first decade of the twentieth century, being the most prominent among these. AMASUTA and other organizations within the AMAN network have disputed the authority of the Pitunggota council, thus adopting an oppositional stance, but, unlike the exclusivist stance of groups in the peripheries of Central and South Kalimantan, AMASUTA has maintained an inclusivist stance, competing for the allegiance of lowland Kaili communities as well as the more peripheral groups of Central Sulawesi's mountainous interior. Yet such a strategy has not been wholly effective, as there are significant splinter groups (for instance, factions of AMABA, the Aliansi Masyarakat Adat Banggai) that seek to advance their own interests outside the framework of the AMAN network. However, AMASUTA has been able to maintain a broadly representative constituency for the whole province, although its hierarchy of officials and the claims it put forward at KMAN II were largely dominated by the interests put forward by representatives from the Kulawi/Lindu area and the Togian Islands.

The demand for 'sovereignty' of the indigenous peoples' movement

The first congress four year earlier had constituted a new stage in identity politics, an enlargement of the scale of co-operation and action, formalized

at the congress by one of its major outcomes, the formation of AMAN. Among its other outcomes was the articulation of a number of demands directed at the national government. Central to these demands, and in fact summarizing all of them, was a pronouncement included in the first 'fact sheet' issued at the conference:

> By means of various policies and laws that it has issued, the state has unjustly and undemocratically expropriated rights of origin [*hak asal-usul*], rights over customary territory, rights of upholding a value system, ideology and customs and traditions, economic rights, and, most importantly, the political right of customary societies to defend and develop their special cultures. The apparatus of policies and laws that force uniformity and have hegemonic qualities have been produced and used systematically to strengthen and defend national sovereignty [*kedaulatan negara*], placing it over the sovereignty of customary societies [*kedaulatan masyarakat adat*].[13]
>
> KMAN (1999a: 1)

Various other lists of more specific demands were also issued throughout the course of the conference, and have been reinforced by subsequent claims of AMAN, but none has so comprehensively summarized the overall thrust of the first national conference's concern to force recognition of the rights of customary societies as this assertion of sovereignty, one reiterated and expanded in the publications issuing from AMAN after the conference (for instance: AMAN n.d.a).

Yet, perhaps no term is more problematic than the 'sovereignty' (*kedaulatan*) of archipelagic indigenous peoples. Throughout the New Order, and indeed since the transfer of 'sovereignty' from the Netherlands to the Republic of the United States of Indonesia on 27 December 1949 (Burgers 1998: 384), this has been an attribute reserved for the nation-state of Indonesia.[14] It is the Indonesian (nation-)state that is sovereign: *negara (-bangsa) yang berdaulat* (Philpott 2000: 56). Indeed, that assertion accords with many standard definitions of sovereignty, for example, as 'the claim to recognition as an independent nation state in international law' (Nettheim 1988: 117).

Nevertheless, it is clear that the representatives of the customary societies assembled at KMAN I, with the exception of those from Acheh/Aceh, West Papua/Irian Jaya, and (more conditionally and less stridently) Riau, were not equating the assertion of sovereignty for their local custom with the quest for independence as separate nation-states. As subsequent publications of AMAN and the linked organizations that have sprung up in the provinces to co-operate with it have made clear, advocates of customary societies still see themselves as ardent nationalists in the traditional sense, as striving to fit themselves into the overarching framework of Indonesia, acknowledged to 'function as a state and nation' (*yang bernegara dan berbangsa*). Indeed, more recent publications, including those describing the

demands of KMAN II (see, for instance, Penyelenggara KMAN II n.d.) have emphasized that the movement's demands must be seen in the wider context of developing a more encompassing and participatory civil society in Indonesia as a whole.[15] In all the publications, printed and on the internet, that I have seen from this network of organizations representing indigenous peoples, the authors are careful to reserve the term *bangsa*, which may mean either 'nation' or 'people', for the Indonesian nation as a whole, while describing themselves by the term *masyarakat*, 'community' or 'society'. The phrasing of this opening declaration giving the rationale for the formation of the 'Solidarity Forum of Dayak Society' provides a typical example:

> While indigenous peoples constitute the largest element in the structure of the Indonesian nation-state, in its formulation of national policy the existence of customary societies has yet to be accommodated, or perhaps they have even been systematically eliminated from the national political agenda.
>
> Forum Solidaritas Masyarakat Dayak (2000)

As in the pronouncements issued at KMAN I, this organization, with its aspirations to Kalimantan-wide representation, which was formed in the wake of the first congress as part of the wider Indonesian indigenous peoples' movement (*gerakan masyarakat adat*), is careful in declaring its programme not to undermine the state's monopoly of nationhood. Rather, the forum seeks merely to gain a greater recognition from the state for its constituent communities and to remind the government of its duty to fulfil the mandate of heeding the citizenry of its 'plural state' (*negara majemuk*). Assertion of local sovereignty is thus proclaimed as a more appropriate realization of the original nationalist aim of promoting 'mutual respect and working together toward a strong nation' in the context of the 'variety of cultures and plurality of local systems in Indonesia', as encoded in the national motto *Bhinneka Tunggal Ika* – usually translated as 'Unity in Diversity' (KMAN 1999a: 1).

Sovereignty as an international concept, however, has in most Western discourses been associated with the notion of a nation-state's 'ultimate authority to reject outside control' (Rabkin 1998: 34). Besides its 'ultimate' character, it has usually been attributed with 'exclusivity', particularly as a source of political identity (Denham and Lombardi 1996: 1). Yet, in the case of the customary society movement, the term *kedaulatan masyarakat adat* appears to be used to present a complementary, rather than exclusive node of allegiance for communities still oriented to the practice of local custom. In the passages of some AMAN publications, the term is juxtaposed with autonomy (*otonomi*) in a way which suggests that the two are being used as synonyms. In such cases it is implied that sovereignty is concerned only with the internal ordering of local control rather than the provision of security against external threats as well; sovereignty does not extend to the right

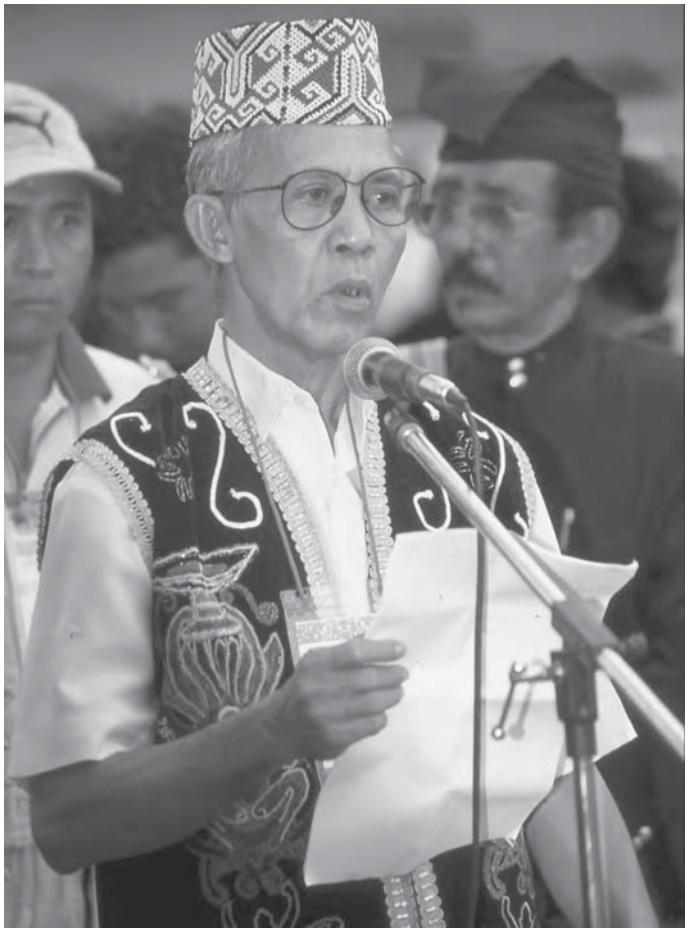


Figure 13.3 West Kalimantan delegate (Nazarius, a founding member of the masyarakat adat movement) addresses the audience during KMAN II

to local militias in that regard. However, it has meant the right of local indigenous peoples to deal with economic penetration from the outside, whether from the incursions of migrants or the depredations of enterprises (such as palm oil plantations) owned by outsiders, often in partnership with foreign concerns.[16] The revitalization of local institutions such as customary councils (*dewan adat*) has been the major means by which indigenous peoples have sought to deal with such incursions, attempting to use traditional sanctions such as imposing fines in locally valued goods (such as water buffalo) to control destruction wrought by outsiders and protect rights to local resources. In this capacity such customary institutions have served as organs for the potential exercise of sovereignty.

Political scientists and legal scholars have noted that the term sovereignty is becoming ever more ambiguous (Rabkin 1998: 2), especially given the problems that nation-states carved out of colonial possessions in the South have had in holding together ethnically diverse populaces:

> With the expansion/imposition of the European state system during decolonialization, many areas of the world, especially in the South (that is, the Third World) became *de jure* if not *de facto* states. These entities were territorially proscribed [*sic*] and internationally endowed with rights and privileges ascribed to other historically anchored states. Yet, almost immediately, deep fissures in this sovereign system emerged as many of these fledgling states found sovereign authority difficult to maintain, in part because of their inability to inculcate and socialize their widely disparate populations into a universal, sovereign source of political identity and authority. It was not merely the act of control and authority that became problematic for new regimes but the very idea of sovereignty and its concomitant concepts of identity and community that failed to take root.
>
> Denham and Lombardi (1996: 3)[17]

Theorists considering the erosion of the sovereignty of nation-states in the North as well have usually concentrated on threats 'from above', that is, those proceeding from levels beyond the nation-state, including ever-encroaching globalization through TNCs (transnational corporations), international NGOs (non-governmental organizations), regional and international associations (such as NATO and the UN), and international treaties, trade agreements, and protocols (such as GATT and the Kyoto Protocol). Interestingly, Rabkin (1998: 50) labels 'customary international law', the uncodified practices that make possible any implementation of the 'law of nations', as one of the greatest threats global governance poses to the sovereignty of the nation-state. In the case of the indigenous peoples' movement, including that in Indonesia, the assertion of a countervailing sovereignty to that of the nation-state apparently proceeds from below. Yet, trying to make sense of the dimensions involved in this movement's demand for recognition of the sovereignty of local custom also involves looking beyond the level of local societies to their wider global identification with indigenous peoples throughout the world.

Customary 'sovereignty' in the agrarian sector as an historically contested site of local control by adat

In the first instance, understanding just what is intended by the assertion of the 'sovereignty' of customary societies requires examining the more specific demands made by the representatives of indigenous peoples throughout the first and second KMAN and by the organizations that have played an allied

part in this movement. Setting forth an agenda oriented to 'basic human rights, democratization, natural resources/environment', the organizing committee devoted the first two days of KMAN I to three preliminary discussions, covering, first, regional autonomy and customary governance, second, customary land (*tanah adat*), and, third, basic human rights and the politics of customary societies (KMAN 1999b: 1). By the end of this first congress, their demands had been categorized into five major categories in a final position statement, dealing with political control, legal control, economic control, society and culture, and indigenous women (Down to Earth 1999: 1).

One of the first major targets of ire in the masyarakat adat movement was the imposition of a uniform system of local governance based on the administrative village (*desa*). The basis of this uniform village administrative system was established in two pieces of legislation, the 1974 regional government law (UU 5/1974) and the 1979 village government law (UU 5/1979). Masyarakat adat representatives accused this system of splitting local communities apart or sometimes amalgamating them into new units that have no basis in indigenous adat, and thus creating decision-making bodies (*aparat desa*, village administrative apparatus) that do not allow for representation of local interests. It has not allowed indigenous institutions, such as traditional adat councils, to exercise functions of governance and thus not allowed any scope for local autonomy or, indeed, sovereignty in such arenas as dispute resolution. In fact, the rescinding of this uniform desa governance system by the regional autonomy law (no. 22) of 1999 was singled out by the second congress's terms of reference as a reform in keeping with the demands of the first congress, although no direct causal relationship between these demands and the legislation has been posited (Panitia Kongres n.d.).

The agrarian issue of legal control over local land by the nation-state constitutes perhaps the most resented usurpation of local rights. Representatives of indigenous peoples have rejected entirely the declaration of customary land (*tanah adat*) as state land (*tanah negara*).[18] Such expropriation constituted a denial of their communal rights over uncultivated land (*hak ulayat*), one of the foundations of adat. The Basic Agrarian Law of 1960, the Basic Forestry Act of 1967, and the Basic Mining Act of 1967 were likewise manifestations of the 'power which the state has exerted to deprive indigenous peoples of our rights over land and natural resources' (Down to Earth 1999: 1). The powers given to the central government by these basic regulations have continued as a central focus of KMAN II, with 'the existence of a change in policy and law at the regional and national level that explicitly acknowledges and guarantees legal protection of the rights of indigenous peoples' (Penyelenggara KMAN II n.d.: 8) put forth as a major objective. Central to achieving this objective, according to the congress organizers, is the abrogation of the right of the state to natural resources, as set forth in paragraph 33, article 3 of the 1945 Constitution and in the Basic Agrarian Law of 1960.[19]

In addition to striving for a proper recognition of their place as the ultimate social building blocks, the 'last fortresses' of the national order, properly understood, the 'customary societies' represented at KMAN I particularly concentrated upon asserting their 'customary right to territory and the natural resources in it' (KMAN 1999a: 1). Not only was this one of the three foci of concentration, along with democratization and human rights, in the preliminary seminars, it also provided the focus for many of the subsequent declarations during the conference, as well as for the subsequent proclamations made by the organizations which have sprung from the conference, and for the deliberations of the local-level adat councils which have found themselves re-empowered by the movement. The second of the preliminary seminars produced three basic demands: the rescinding of all laws and regulations that had inflicted losses on customary societies, the acknowledgement and protection of rights to customary land, and the requirement to gain agreement from local customary societies for all forms of use and ownership of customary land. The expropriation of their resources through monopolistic policies of 'corruption, collusion, and nepotism' (*Korupsi, Kolusi dan Nepotisme*, KKN) used by the 'centralistic and authoritarian (militaristic)' New Order state was declared a fundamental 'transgression of basic human rights' (Kartika and Gautama 1999: 176).

Concentration upon the rights of customary societies to oversee the use of local resources, especially land, constituted a clear stream of concern throughout the first KMAN, as it established the territorial grounding of local sovereignty. Four of the twelve economic demands issued at the end of the conference – dealing with the rejection of monoculture farming systems, the reclamation of the right of local management of all local resources, and the return to customary societies of various types of land and natural resources that had been allocated to other uses by the central government, including 'conversion land' (*tanah konversi*), that is, the remainder of land with Western rights over it, and land given over to concessions granted by the government – explicitly referred to land or the use of natural resources related to it (KMAN 1999c).[20] Taking back ultimate jurisdiction over the bestowal and use of land not under permanent cultivation (*hak ulayat*, the Indonesian form of the colonial Dutch legal term *beschikkingsrecht*) was announced as one of AMAN's most important goals (Fauzi 1999: 186; Gesuri et al. 1999). The need to force central government recognition of customary land rights as no longer subordinate to state-defined interests emerged as one of the most significant demands of the customary society movement, constituting 'a claim for the sovereignty of customary societies over their territories' (Fauzi 1999: 186).

In many ways this focus represents one of the most historically enduring sites of contestation for local societies, including those now termed archipelagic indigenous peoples, in Indonesia. During the colonial era, the Agrarian Law of 1870 constituted the key legal instrument initiating what has come to be known as the 'liberal' period of Dutch colonial control,

which lasted for approximately thirty years. It was particularly important in providing scope for private estate agriculture, especially on the part of Dutch entrepreneurs (Ricklefs 2001: 161). To lease out land to these entrepreneurs, for periods of up to 75 years, it was necessary first for the Netherlands East Indies government to claim the potentially leasable land as its own, that is, as state land (*staatsdomein*). Indeed, such a claim was one of the primary functions of this Agrarian Law. Actually, the 1870 law was but the first of a series in a process of state appropriation of land throughout the archipelago. The initial articles of Regulation 118 of (20 July) 1870 concerning Agrarian Matters (*Agrarische Aangelegenheden*) are phrased in general terms, both protecting the rights of local people whose land is 'owned in hereditary, individual use' (*in erfelijk individueel gebruik bezeten*) (article 4), especially those having obtained written title (*schriftelijken titel*) (art. 3), and circumscribing the rights of the native population (*inlandsche bevolking*) to land to which they claim rights by virtue of religious laws, institutions, and usages (art. 2). It is the land for which individual rights have not been established that is declared the 'domain of the state' (*domein van den Staat*) (art. 1). However, this law was declared applicable only to Java and Madura (art. 20), with lands elsewhere in the archipelago being subsequently subjected to specific colonial ordinances consistent with the basic principles of the 1870 Agrarian Law. In fact, this basic law was extended outside Java and Madura by Law 199a of 1875, but apparently more ordinances, and in some cases laws, for specific areas were still considered necessary. For example, Law 55 of 1877, specifically alluding to the 1870 agrarian law, but not the 1875 law, specified that in the residency of Manado all 'waste lands' (*woeste gronden*) – that is, those lands on which there was no claim to cultivation by members of the local population – were to be considered as state domain (*staatsdomein*) and thus included within the scope of the land that could be subjected to long-term leases to outsiders. Although initiating the liberal period, these agrarian laws could also be seen as the culmination of efforts to impose the notion of state property that had begun with the period of British colonial control under Raffles (Hooker 1975: 252). Ironically, it was the agrarian policy initiated by this law that functioned also as the catalyst to the systematic interest in *adatrecht* (adat law), much of which came to focus upon means of determining and protecting indigenous claims to land (Vandenbosch 1932: 34; see also Chapters 3 and 6 in this volume).

Although intended to update, and in some cases abrogate, many of the specific agrarian policies of the colonial era, the Agrarian Law of 1960 promulgated by the independent Indonesian government also managed to retain intact many of the fundamental principles of the colonial legislation. In part this flowed from the desire of the recently independent Indonesian state to place the substantive body of law and its administration on a unitary basis, as many nationalist administrators regarded the retention of regional adat laws as part of the 'divide and conquer' policies of the Dutch colonial era. Yet, the Indonesian state felt itself to be the ultimate guardian

not just of national unity but also of the national interest. Just as the colonial Indies Constitution (*Indische Staatsregeling*) of 1925 had declared that government legislation overrode adat whenever 'the public interest or the social needs of the native so require' (art. 121/2b, as quoted in Hooker 1975: 278), so the Agrarian Law of 1960 was central to this same project in the era of independence. Hooker (1975: 282) has noted that although this law is declared to be based on adat principles in general, it explicitly ignored or overrode specific adat rights in its endeavour, much like that of the colonial Agrarian Law of 1870 which it was supposed to be reforming, to provide a very European form of individual rights to ownership and disposal of land: 'The Act may be seen therefore as both an obliteration of specific *adat* property rights and as an affirmation of *adat* general principles relating to land' (Hooker 1975: 291).[21]

This tension between general recognition and specific abrogation has left some crucial ambiguities in the Basic Agrarian Legislation of 1960 (*Undang-undang No. 5 Tahun 1960 tentang Peraturan Dasar Pokok-pokok Agraria*) which the indigenous peoples movement has been able to exploit. Despite the law's preamble overtly stating its aim to supersede colonial laws in this sector (GOI n.d.: 4–5) and to overcome the Dutch legal policy of dualism, which had separated Western law (*hukum Barat*) from local customary laws (*hukum adat*), in many ways the legislation succeeded only in creating an uneasy tension between these two existing sources of law. Indeed, its opening 'opinion' explicitly notes 'the necessity of the existence of a national agrarian law that is based upon customary law concerning land, which is simple and ensures legal certainty for all of the Indonesian people, without neglecting the elements that are dependent upon religious law' (GOI n.d.: 1). However, once its central stipulations begin to be listed, it is clear that this legislation seeks to subordinate local customary law to national interests. Ultimately, all natural resources, 'the land, water and air, including all the natural riches to be found in them, are controlled at the highest level by the State as the organization of power [*organisasi kekuasaan*] of all the people' (GOI n.d.: 5–6). This ultimate 'right of control' is part of the State's arrogation of sovereignty for the declared purpose of achieving prosperity and justice for all the people of Indonesia (GOI n.d.: 6).[22] Such an ultimate warrant could be invoked to justify the abrogation of rights of access and disposal in much the same way as the 1877 colonial legislation on *woeste gronden* in the residency of Manado.

> The *hak ulayat* [the village adat 'right of disposition over land cultivated or claimed as waste by its members'] and similar rights of adat law communities, in so far as they still exist in fact, must be exercised in such a way as to accord with national and state interests based on national unity, and so as not to contradict laws and other regulations which are of a higher order.
>
> Article 3 of the Agrarian Law, as quoted by Hooker (1975: 291–2)

The ascription of ultimate sovereignty to the state in matters concerning the control and use of such resources as land is precisely what the contemporary indigenous peoples' movement has sought to contest as part of its reassertion of the competing sovereignty (*kedaulatan*) of customary societies. In practice, the 1960 agrarian law has resulted in all land that is not given over to habitation or used in permanent cultivation, encompassing wet-rice cultivation and tree crops, being declared state land (*tanah negara*), as in the case of the declaration of the governor of Central Sulawesi mentioned above. The state thus reserves the ultimate right of disposal rather than the land being allocated under jurisdictional rights of access (*hak ulayat*) dictated by local adat. For example, temporarily unallocated, fallow swidden fields and forest areas which local peoples use for gathering wood, rattan, medicinal herbs, and other resources, could be, and have often been, declared by the state as open land that could be used for such purposes as transmigration sites and forestry concessions. In such decisions the status of 'customary land' (*tanah adat*), much of which covers precisely these types of uncultivated land subject to local regulation by adat councils, has been by and large ignored.[23] Any form of customary control over land and other resources can be exercised only in virtue of a direct bestowal by the state: 'The autonomous regions and customary societies can be authorized [*dikuasakan*] with the above-mentioned right of control by the state, in so far as it is necessary and is not in conflict with national interests, according to the decisions of Government Regulations' (GOI n.d.: 6). The state's delegation of authority over such land is ultimately subject to the test of consistency with what the state defines as national interests. Of course, those interests are so broadly defined, covering religious needs, social and cultural needs of society, needs of agriculture, livestock, fisheries, industry, transmigration, and mining, as well as any other needs of the state (GOI n.d.: 9), that ultimately the state can justify almost any assertion of its authority in land allocation issues.

Yet, the 1960 agrarian legislation itself is crucially ambiguous in regard to the ultimate basis of such control. Contrasting with the stipulations given in the last paragraph, section 5 of the very same legislation appears to reverse the order of legal empowerment, declaring the basis of operative agrarian law to be existing customary laws, as long as they do not conflict with national interests, Indonesian socialism, agrarian and other laws, and religious law (GOI n.d.: 7). It is precisely such ambiguities that the masyarakat adat movement plays upon in the current move to restore customary land (*tanah adat*) as a recognized category of land over which local societies can exercise sovereign rights. The movement's advocates argue that such policies simply constitute a more perfect realization of the philosophical basis of Indonesian nationalism (KMAN 1999a: 1). Yet, to date in most provinces, attempts to re-appropriate lands given out as concessions, allocated to transmigrants, converted to national parks, or otherwise appropriated by the government, restoring them to the status of tanah adat, have been by

and large unsuccessful, despite some individual exceptions (for instance, the recognition of Katu rights to customary land now recognized as constituting an enclave in the Lore Lindu National Park). In this respect a colonial situation has continued to exist. It is no wonder that some participants at KMAN conferences, when discussing the specific issues with which they are confronted, have declared, 'We are still being colonized!' (*Kami masih dijajah!*).

Concluding remarks

As this review of claims to sovereignty by the archipelagic indigenous peoples' movement has indicated, several problems persist. Some of these are caused by the very ambiguity of the term 'sovereignty' (*kedaulatan*) in the context of indigenous peoples' claims to local control. Just what constitutes a customary territory over which such sovereignty can be exercised remains vague, given the very different scales of settlement recognized within the range of 'indigenous peoples' communities'. Other problems stem from factors external to the self-defining features of the movement, such as the continuity of general principles, especially in regard to agrarian control, from the colonial era. Government recognition of general adat principles with rejection of specific adat claims is not a novel stance. In many ways the reforms of regional autonomy have managed only to shift the major locus of such attitudes from the central government down to the provincial and district levels, where increased pressures to find sources of local income have exacerbated tendencies to reject local claims to community control of resources.

Yet such opposition has not in most instances resulted in calls for separatism among advocates of the masyarakat adat movement. Even the demands for sovereignty evident at both national congresses may be seen as calls not just for a certain type of autonomy, but also for a mutual recognition, not the usurpation of the sovereignty of the Indonesian nation-state by indigenous peoples. Indeed, in another list of demands, the first national congress clarified its quest as an appeal, if not a demand, to the state to 'settle the issue of self-determination within the state' (Down to Earth 1999: 2–3). In fact, it explicitly called upon the state to acknowledge and sign such international agreements as the International Labour Organization (ILO) Convention 169 and the United Nations' draft Declaration on the Rights of Indigenous Peoples (Down to Earth 1999: 3).[24] Clearly, what KMAN II was intending by the assertion of sovereignty drew more from the discourse of indigenous peoples, derived in part from anthropology and promulgated by the NGOs which facilitated their meeting, than from the discourse of nation-building derived from political science and international relations.[25] Indeed, by enlarging the scope of demands for local control from land to natural resources in general, the Indonesian indigenous peoples' movement has been able to invoke the global discourse of sustainability in order to buttress its

claims against assertions of national interest from the state. It has also sought to avoid an exclusive concern with its own rights, as was clearly evident in the particular statements of objectives and expected results. In its aim of working together with other organizations concerned with other basic rights seen as crucial to the preservation and enhancement of civil society in Indonesia as a whole, as well as its commitment to participation in national and local elections so as to maximize the number of its own representatives in official government organs (AMAN 2002), it has moved from the position of simply demanding acknowledgement of its members' existence and rights to a stance of consolidating its own structure through pursuing an agenda oriented to general human rights, democratization, and natural resource conservation, constituting a global orientation in order to achieve local recognition.

Notes

1 In Indonesian: 'Memperkuat posisi dan peranan masyarakat adat untuk mewujudkan keadilan dan demokrasi kerakyatan di era otonomi daerah' (Penyelenggara KMAN II, n.d.: 4). I have elsewhere set forth some of the inconsistencies in the use of the term 'indigenous people(s)' as a gloss for masyarakat adat (Acciaioli 2001, 2002). However, as it is the preferred translation used by participants in the movement and indicates the ties with the wider global indigenous peoples' movement, I will use it here as a gloss, but indicate its problematic nature by the continued use of quotation marks in the Indonesian context, except where the global movement is intended.
2 In publications distributed at this second national congress and issued by AMAN before and after it, the congress itself is referred to in English as 'the Second Congress of Nusantara Indigenous Peoples Alliance' and abbreviated as NIPC. It is interesting that the official English translation uses the term 'Alliance', which does not occur in the Indonesian original (*Aliansi*). The use of the term in English indicates that the congress was the meeting of a particular organization, the Alliance of Indigenous Peoples of the Archipelago (Aliansi Masyarakat Adat Nusantara or AMAN), whereas the Indonesian title indicates only that it is a congress of and for indigenous peoples throughout the archipelago, whether or not included under the umbrella of this co-ordinating organization.
3 Analysts invoking a Weberian model of social movements would recognize a phase shift from charismatic origins to routinization and rationalization in the orientation of KMAN II.
4 These objectives are similar to those stated for the movement as a whole in its evaluation of its position after three years: '1. To get the lessons learned from the entire implementation of the decisions of the first congress in the last three years; / 2. To consolidation [*sic*] of indigenous peoples organizations and to achieve the synergy of indigenous peoples' efforts to struggle for recognition, respect, and protection; / 3. To get support for indigenous peoples movement through strengthening and widening the alliance with other pro-democracy groups; / 4. To straighten up indigenous organizations including developing a clear platform to be guidelines for the organization in developing its programs that are expected to be in

accordance with the aspirations and the needs of indigenous peoples' (Panitia Kongres n.d.: 2).

5 The second KMAN was originally scheduled for three years after the first in 1999, but owing to problems in first finding and then putting in place all the permissions and support structures for a suitable venue, the occasion was postponed numerous times until finally being held on 19–26 September 2003.

6 Once again, these expected outputs for KMAN II echoed the more general outputs set forth for the movement as a whole across its first three years: 1. Indigenous peoples allied in AMAN will be able to be consolidated well in their local organizations; / 2. Indigenous people will have greater political bargaining position with regards to political processes related to the implementation of local autonomy; / 3. AMAN will have a better organization structure that can provide a sphere for indigenous peoples' aspirations and a better capacity to serve its members. / 4. AMAN will have a good platform to be [*sic*] strategic guidelines for the organization to develop its programs; / 5. Indigenous-related issues will be known widely at local, regional, National and international level; / 6. Indigenous peoples' aspiration and demands will be accommodated in national political agendas' (Panitia Kongres n.d.: 2–3). However, the greater specificity of phrasing of the congress objectives, with implications for operationalization in programmes, is evident.

7 The original Indonesian: 'kelompok masyarakat yang memiliki asal-usul leluhur (secara turn temurun) di wilayahnya geografis tertentu, serta memiliki sistem nilai, ideologi, ekonomi, politik, budaya, sosial, dan wilayah sendiri'.

8 The original Indonesian: 'komunitas-komunitas yang hidup berdasarkan asal-usul leluhur secara turun-temurun di atas suatu wilayah adat, yang memiliki kedaulatan atas tanah dan kekayaan alam, kehidupan sosial budaya yang diatur oleh hukum adat, dan lembaga adat yang mengelola keberlangsungan kehidupan masyarakatnya'.

9 In the original Indonesian: 'Anggota AMAN adalah sekelompok penduduk (komunitas) masyarakat adat yang memiliki wilayah adat yang jelas, sistem hukum dan pranata adat yang khas, dan telah menyatakan diri serta diterima secara sah menjadi anggota AMAN.'

10 When I queried members of the South Sulawesi delegation, which showed a similar geographical bias, to KMAN II about this absence, they simply stated that it was due to the Bugis and Makassarese communities' lack of interest rather than to any specific policy of exclusion. This contrasts with the explicit policy of exclusion of the Banjarese by members of the strongest indigenous peoples' organization in the province, Aliansi Masyarakat Adat Meratus, from the preliminary congress in South Kalimantan, as treated below in the text.

11 Daerah Aliran Sungai or DAS have long been and continue to be the main units for social and economic intercourse in Central Kalimantan. Most of the eight new districts recognized in the last two years in the wake of regional autonomy are demarcated by DAS, and even in the second decade of the twentieth century Lumholtz's (1920) labelling of ethnic groups in this part of Borneo followed many DAS units, for instance by listing Katingan as an ethnicity (and making no mention of Ngaju).

12 However, there are *komunitas masyarakat adat* from Poso district included among those listed in Table 13.1, though the level of specification in the original data

does not allow me to determine whether these are communities largely of Pamona, Wana, or other ethnicity.

13 The original Indonesian: 'Dengan berbagai kebijakan dan hukum yang dikeluarkan, negara secara tidak adil dan tidak demokratis telah mengambil-alih hak asal usul, hak atas wilayah adat, hak untuk menegakkan sistem nilai, ideologi dan adat-istiadat, hak ekonomi, dan yang paling utama adalah hak politik masyarakat adat untuk mempertahankan dan mengembangkan kebudayaannya khas. Perangkat-perangkat kebijakan dan hukum yang memaksakan uniformitas dan bersifat hegemonistik ini diproduksi dan digunakan secara sistematis untuk memperkuat dan mempertahankan kedaulatan negara atas kedaulatan masyarakat adat.'

14 Ardent Indonesian patriots might wish to argue for the sovereignty of the Indonesian state beginning with the declaration of independence on 17 August 1945. In fact, Burgers (1998) presents a strong case for dating Indonesian sovereignty in legal terms from the independence proclamation.

15 At times the term *masyarakat sipil* is used, while at others *masyarakat madani*, which has Islamic connotations, is the term of choice to indicate 'civil society'.

16 For instances of how migrant Bugis use local environments in non-sustainable ways see Acciaioli (1998).

17 Burgers (1998: 383) has echoed this position about the increasing ambiguity concerning the scope of sovereignty: 'The more one studies this mystic substance named "sovereignty", the more it loses its shining lustre. Sovereignty is the legal entitlement to exercise supreme power over a territory. According to Social Contract theories, it ultimately derives from the will of the people and has two main functions: ensuring the internal security as well as the external security of the people. However, in actual international law this *entitlement* is based first of all on the *capacity* to exercise such power for a sufficient time, even *against* the will of the people'.

18 One of the most explicit demands of the preliminary provincial-level congress of AMASUTA in Central Sulawesi, held four months before the second national congress, was for the rescinding of the former governor's declaration that customary land (*tanah adat*) did not exist in the province; all land so labelled by local societies was simply state land (*tanah negara*) according to the governor.

19 Allied to such legislation usurping local control of land was the exploitation of local people's natural resources through the granting by the government of concessions – forest enterprise concessions (*Hak Pengusahaan Hutan*), industrial plantation concessions (*Hutan Tanaman Industri*), and others – which 'make it easy for businesses to take out land and exploit the natural wealth which belongs to us' (Down to Earth 1999: 1).

20 The full lists of economic demands made at KMAN I may be found in Acciaioli (2002).

21 In fact, its drafters explicitly sought to abrogate those adat stipulations that they felt reflected either feudal principles or capitalist influences (Hooker 1975: 289).

22 Indeed, the very definition of 'the people's prosperity' is given as 'nationalism, safety, and independence within the society and legal State of a free, sovereign, just and prosperous Indonesia' (GOI n.d.: 6).

23 In some cases compensation has been paid to people designated as customary owners, but not at any market rate. The declaration of such land as simply state land (*tanah negara*) is another respect in which the 1960 Indonesian agrarian law

continued Dutch colonial practice, as first codified in the *domeinverklaring* of 1870, which declared all unclaimed and forest lands as the domain of the state (Peluso 1992: 50). This parallels how other colonial regimes have often regarded land not permanently cultivated, largely land not subject to individual ownership, as 'empty' and hence available for uses deemed fit by the state, such as agricultural settlement or pastoral leases – for example, *terra nullius* in Australia.

24 The ILO defines indigenous and tribal peoples by the following criteria: '1(a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws; / 1(b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. / 2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this convention apply' (Down To Earth 1999: 3).

25 About fifty representatives of NGOs attended KMAN I, according to one estimate. NGOs provided much of the funding for KMAN.

References

Acciaioli, G. (1998) 'Bugis entrepreneurialism and resource use: structure and practice', *Antropologi Indonesia*, 22(57): 81–91.

—— (2001) 'Memberdayakan kembali "kesenian *totua*": revitalisasi adat masyarakat To Lindu di Sulawesi Tengah', *Antropologi Indonesia* 25(65): 60–83.

—— (2002) 'Re-empowering "the art of the elders": the revitalization of *adat* among the To Lindu people of Central Sulawesi and throughout contemporary Indonesia', in M. Sakai (ed.) *Beyond Jakarta: regional autonomy and local societies in Indonesia*, Adelaide: Crawford House.

AMAN [Aliansi Masyarakat Adat Nusantara] (2002) *Keharusan Perluasan Partisipasi Politik Masyarakat Adat: agenda politik Aliansi Masyarakat Adat Nusantara dan strategi dan rencana aksi penguatan posisi politik masyarakat adat Nusantara 2002–2003*, Jakarta: Sekretariat Nasional Aliansi Masyarakat Adat Nusantara.

—— (2003) *Satu Yang Kami Tuntut: Pengakuan*, Bogor: World Agroforestry Centre (ICRAF), Aliansi Masyarakat Adat Nusantara (AMAN), and Forest Peoples Programme (FPP).

—— (n.d.a) *Menyatukan Gerak Langkah Menuju Kedaulatan Masyarakat Adat: buku panduan umum bagi pengurus, anggota dan pendukung*, Jakarta: Sekretariat Nasional Aliansi Masyarakat Adat Nusantara.

—— (n.d.b) *Rancangan Anggaran Dasar*, unpublished circular distributed at KMAN II.

Burgers, H. (1998) 'What sovereignty was transferred to the Republic of Indonesia?', in M. Castermans-Holleman, F. van Hoof, and J. Smith (eds), *The Role of the Nation-State in the 21st Century: human rights, international organisations and foreign policy; essays in honour of Peter Baehr*, The Hague: Kluwer Law International.

Denham, M.E. and Lombardi, M.O. (1996) 'Perspectives on Third-World sovereignty: problems with(out) borders', in M.E. Denham and M.O. Lombardi (eds) *Perspectives on Third-World Sovereignty: the postmodern paradox*, Houndmills, Basingstoke: Macmillan.

Down To Earth (1999) 'Challenging the position of the state vis à vis indigenous peoples', *Down to Earth Newsletter Special Issue on AMAN* (October 1999). Online. Available: <http://www.gn.apc.org/dte/sicha.htm> (accessed 20 March 2004).

Fauzi, N. (1999) 'Sengketa tenurial atas tanah dan kekayaan alam kepunyaan masyarakat adat', in S. Kartika and C. Gautama (eds) *Menggugat Posisi Masyarakat Adat terhadap Negara: prosiding Sarasehan Masyarakat Adat Nusantara Jakarta, 15–16 Maret 1999*, Jakarta: Sekretariat Aliansi Masyarakat Adat Nusantara.

Forum Solidaritas Masyarakat Dayak (2000) *Pidato Deklarasi*. Online. Available: <http://www.dayak-online.org/deklarasi.html> (accessed 20 March 2004).

Gesuri, A.T., Suprapto, E. and Marsudi, B. (1999) 'Kembalikan tanah kami: masyarakat adat meminti kekuasaan tanah ulayat', *Kontan*, 19 March.

GOI [Government of Indonesia] (n.d.) *Undang-undang No. 5 Tahun 1960 tentang Peraturan Dasar Pokok-pokok Agraria*, n.p.

Hooker, M.B. (1975) *Legal Pluralism: an introduction to colonial and neo-colonial laws*, Oxford: Clarendon Press.

Kartika, S. and Gautama, C. (eds) (1999) *Menggugat Posisi Masyarakat Adat terhadap Negara: prosiding Sarasehan Masyarakat Adat Nusantara Jakarta, 15–16 Maret 1999*, Jakarta: Sekretariat Aliansi Masyarakat Adat Nusantara.

KMAN [Kongres Masyarakat Adat Nusantara] (1999a) [fact sheet] n.p.

—— (1999b) *Fakta KMAN* [press release] n.p.

—— (1999c) '12 tuntutan ekonomi masyarakat adat', *Pelita Bangsa*, 19 March.

Lumholtz, C. (1920) *Through Central Borneo: an account of two years' travel in the land of head-hunters between the years 1913 and 1917* (2 vols), New York: Scribners.

Nettheim, G. (1988) '"Peoples" and "Populations": indigenous peoples and the rights of peoples', in J. Crawford (ed.) *The Rights of Peoples*, Oxford: Clarendon Press.

Panitia Kongres (n.d.) 'Attachment 1: Terms of Reference, The Second Congress of Nusantara Indigenous Peoples Alliance' (photocopy distributed at KMAN II).

Peluso, N.L. (1992) *Rich Forests, Poor People: resource control and resistance in Java*, Berkeley, California: University of California Press.

Penyelenggara KMAN II (n.d.) *Laporan Proses dan Hasil Kongres Kedua Masyarakat Adat Nusantara (KMAN II)*, unpublished draft report.

Philpott, S. (2000) *Rethinking Indonesia: postcolonial theory, authoritarianism and identity*, Houndmills, Basingstoke: Macmillan.

Rabkin, J. (1998) *Why Sovereignty Matters*, Washington, D.C.: AEI [American Enterprise Institute] Press.

Ricklefs, M.C. (2001) *A History of Modern Indonesia since c. 1200*, 3rd edn, Houndmills, Basingstoke: Palgrave.

Vandenbosch, A. (1932) 'Customary law in the Dutch East Indies', *Journal of Comparative Legislation and International Law*, 14: 30–44.

14 The masyarakat adat movement in Indonesia

A critical insider's view

Arianto Sangaji

This chapter aims to provide a critical overview of the ways in which the concept of *masyarakat adat* – literally, adat community or adat society – has been used (or abused) by Indonesian non-governmental organizations (NGOs). NGO understandings of masyarakat adat largely conform with internationally accepted interpretations (for instance, those used by the International Labour Organisation) of the English term 'indigenous peoples'. Masyarakat adat is also employed partly as a positive alternative to the more or less pejorative terms *suku terasing* ('marginalized/estranged tribe') and *masyarakat terkebelakang* ('backward community') which were formerly used by the Indonesian government. Nevertheless its popularity must still be understood primarily in the context of the internalization of the indigenous peoples concept. Below I also investigate the ways in which NGOs have organized local communities which may or may not identify themselves as masyarakat adat. 'Community-based mapping' is among the methodologies used by NGOs – funded by international donor agencies – to translate their normative conceptions of adat community on to people's practical experiences. The two, however, are not always in harmony.

The discrepancies between ideal and reality are furthered explored in this chapter with respect to the masyarakat adat movement itself. To critically juxtapose NGO perceptions against local realities, and to assess the efficacy of interventions based on the masyarakat adat concept, I draw on the important case of Central Sulawesi – and on my own experience as an adat rights activist there. In so doing, I situate the movement within Indonesia's broader post-Suharto democratization process. Economic and political elites have tended to exploit issues related to adat communities for their own ends, and in future a more judicious use of masyarakat adat as an empowering tool will be called for. If the masyarakat adat movement is to succeed, it must work to prevent feudal and local elites from exploiting its name and appeal. It must also strive to avoid narrowness and exclusivity by forging alliances with other forces for democratization.



Figure 14.1 Masyarakat adat groups protest in Palu, Central Sulawesi

Masyarakat adat: concept and critique

Masyarakat adat has become a popular Indonesian equivalent for 'indigenous peoples' or 'tribal peoples', terms long current in international debates. As early as the 1920s, the ILO was concerned with issues related to 'indigenous workers'. Some three decades later it introduced a first declaration on 'indigenous and tribal populations' in the form of ILO Convention 107. In 1989, following substantial revisions, this became ILO Convention 169 (Kingsbury 1995: 14). The World Bank too has also expressed an interest in indigenous peoples, using the term since 1982 to describe a wide spectrum of social groups (including indigenous ethnic minorities, tribal groups, and scheduled tribes) which possess 'a social and cultural identity that can be distinguished from the dominant society, which disadvantaged them in the development process' (Davis and Soeftestad 1995: 31). Benedict Kingsbury (1995: 33) has proposed a more complete set of criteria with which to identify indigenous peoples. His essential characteristics include: first, self-identification as a distinct ethnic group; second, historical experience of, or contingent vulnerability to, disruption, dislocation, or exploitation; third, long connection with the region of residence; and, fourth, the wish to retain a distinct ideology.

In Indonesia, the term masyarakat adat has been made popular by NGOs for more than a decade. Its beginnings can be traced to a 1993 meeting organized by the Wahana Lingkungan Hidup Indonesia (WALHI) in Tanah Toraja, South Sulawesi (see Moniaga, Chapter 12 in this volume).

The participants in this meeting defined a masyarakat adat as a group that possesses a genealogy in a specific geographical area, as well as a distinct system of values, ideology, politics, economy, culture and territory. At that time government agencies, as noted, preferred such pejorative terms as *masyarakat terasing* (marginalized communities). In 1994 a Social Affairs ministerial directive described the latter as groups which are geographically isolated from, socio-culturally separated from, and/or comparatively underdeveloped with respect to, the rest of Indonesian society (Setyoko 1998).

Over the subsequent decade, more neutral terms were adopted. A 1999 presidential directive (no. 111), for instance, used the term *komunitas adat terpencil*, which referred to a locally oriented, socio-cultural group removed from socio-economic and political networks and services. Meanwhile the 1993 'Toraja definition' for masyarakat adat was uncritically accepted by adat rights activists in Indonesia, including myself. Its popularity was reflected in the many presentations made at the First Congress of the Indigenous Peoples of the Archipelago (Kongres Masyarakat Adat Nusantara), held in 1999 in Jakarta (see Moniaga and Acciaoli in Chapters 12 and 13 of this volume). Regional groups like Aliansi Masyarakat Adat Sulawesi Tengah (Alliance of Adat Communities of Central Sulawesi, AMASUTA) similarly adopted the Toraja definition (*Laporan Prosiding* 2003).

A critical assessment of the Toraja definition must begin with its conceptual broadness, which makes it difficult to use deductively in empirical studies. Masyarakat adat are characterized as possessing their own distinct value systems, ideologies, politics, economies, cultures, and territories. But this is overly idealistic and does not adequately reflect empirical realities. My experience as an adat rights campaigner has made clear to me the confusion involved in attributing such characteristics to any people. The Toraja definition also implies that the characteristics of adat groups are static, as if their values, ideologies, politics, economies, cultures, and territories have been entirely independent from other systems.

In addition, the conceptual vagueness of the Toraja definition is disadvantageous for the masyarakat adat movement. By foregrounding 'distinctiveness' (*ketersendirian*) and making no reference to progressive values such as justice and democracy, it suggests that the movement may not be concerned with social stratification within adat communities themselves. This glossing allows for the resurrection of feudal elements, which continue to find resonance within certain segments of Indonesian society. On the basis of this concern, and to prevent misconceptions, it is imperative for the Toraja definition to be supplemented by elements that emphasize the dynamics of development as empirically experienced by adat communities. I turn now to the complicated case of Central Sulawesi to demonstrate how this can be achieved.

Ethnic overview

Central Sulawesi is a province of great ethnic and religious diversity. There are significant immigrant elements as well as diverse indigenous groups, and local religions exist alongside Islam, Christianity, Hinduism, and Buddhism. The indigenous population can be said to comprise 12 major ethnic groups: Kaili, Tomini, Kulawi, Pamona, Lore, Mori, Bungku, Saluan, Balantak, Banggai, Toli-toli, and Buol. Based on linguistic affiliations or geographical locations (Mattulada 1991: 114–15), these conventional categories are actually simplified abstractions: the Lore, for instance, can be furthered divided into several sub-groups (Napu, Besoa, Bada, and Payapi/Tawaelia) occupying three valleys west of Lake Poso. Exogenous elements include groups of Bugis, Makasar, Mandar, Javanese, Balinese, Gorontalo, Minahasan, Lombok, and Toraja origin or descent, their presence the result of either spontaneous or government-sponsored migration.

Religious affiliation cuts across the indigenous/migrant distinction. Among the indigenous groups, the Bungku and Kaili are predominantly Muslims while most of the Pamona, Mori, and Kulawi profess the Christian faith. Among the migrants the Bugis, Gorontalo, and Javanese are Islamic, while the Minahasans are Christian.

There are substantial, though changing, inequalities among the various ethnic groups. The Pamona and Mori dominated the local government bureaucracy under the New Order, owing to their privileged access to colonial and missionary education from 1894 onward. Other groups were not afforded such opportunities (Nadjamuddin 2002: 138). Within ethnic groups, class divisions are also rife. While a few well-educated Kaili, for instance, have became members of political, bureaucratic, and business elites, the majority are poor. They lack access to formal education, and their land has been forcibly expropriated by the politically and economically powerful. A similar situation exists among the Mori and Besoa. A minority owns large parcels of land, while most people labour for their better-off ethnic 'brothers'. Notable class divisions also characterize migrant populations like the Gorontalo and Bugis.

Historically, such social stratification already existed in the region among pre-capitalist communities. In Kulawi, Kaudern (1940: 35) reported that the population was divided into three classes: the *maradika* or aristocrats, the *todea*, who owned land but enjoyed no special privileges, and the *batua* or slaves. With the advent of a modern state, education, religion, and a market-based economy, traditional social stratification has been largely erased, although it resurfaces during cultural events such as weddings.

To shed light on the dynamics of ethnic group relations in Central Sulawesi, the following sections will deliberate in turn on four factors which have contributed significantly to the development of masyarakat adat in the region: migration, the spread of the world (scriptural) religions, the imposition of political control by a modern state, and the influence of the market economy.

Migration

Since the seventeenth century, migration to Central Sulawesi has been substantial. The subjugation of Makassar by the Dutch in 1667, and subsequent attacks on its former allies by groups allied with the Dutch, led to a great exodus from South Sulawesi, with many Bugis refugees settling in Central Sulawesi (Andaya 2004: 175, 188). For different reasons, influxes of Bugis settlers continued in the nineteenth and twentieth centuries (Gooszen 1999: 94, 100). Much internal migration of Toraja peoples also took place as a result of wars, crop failure, sickness, and local overpopulation (Kaudern 1925: 160).

Over the last century, state-sponsored migration programmes have made their mark (Davis 1976; Charras 1997). In 1906, a former Salvation Army officer named Van Emmerik began a programme to move indigent people from Central Java to an agricultural colony at Kalawara near Palu. A decade later the Salvation Army took over the operation (Brouwer 1994: 78–9), making the area a centre of its missionary activities (Aragon 2000: 119). During this period, Pekawa highlanders from the mountains west of Palu were also forcibly relocated to the lowlands. Government rationales for this relocation ranged from forest conservation to the encouragment of wet-rice cultivation. Over time many Pekawa returned home, having found the climate and disease environment in the lowlands intolerable (Weber et al. 2002: 21–2).

It was during the New Order period, however, that organized migration really became important when Central Sulawesi was targeted as a receiving area for the national transmigration programme. Under the New Order some 85,000 families (about 340,000 individuals) from Java, Bali, Lombok, and East Nusa Tenggara were moved into the province (*Sulawesi Tengah* 1999: 88). Besides transmigration, other post-independence migrations have also been substantial. One had its origins in the social dislocations caused by the 1950s Darul Islam rebellion in South Sulawesi (Harvey 1989), from which many Christian minority groups fled northward (Schrauwers 2000; Aragon 2000). More recent migration to Central Sulawesi has had an economic component too. A central factor here was the opening of the Trans-Sulawesi Highway in the early 1980s. This facilitated the move north for many inhabitants of South Sulawesi searching for new land for cultivation. Upon purchasing parcels from local people, these migrants greatly expanded the amount of land under cultivation by planting wet rice and such agricultural commodities as cloves and cocoa. In particular, the cocoa boom of the 1980s and 1990s made the area attractive for South Sulawesi migrants (Li 2002). The newcomers settled both coastal and highland areas.

Another government-sponsored programme bears a final mention. Like the colonial regime before it, the New Order, though its Social Affairs Ministry's Resettlement of Marginalized Peoples project (Pemukiman Kembali

Masyarakat Terasing, PKMT), moved thousands of people within Central Sulawesi from highland to lowland areas. Ultimately this movement affected great demographic and social change in the province (Haba 1998).

World religions

The arrival of two world religions has had a deep impact on the lives of people in Central Sulawesi. First came the conversion of some indigenous groups to Islam. In Bungku, this process began as early as the sixteenth century as Islam was propagated through the Moluccan kingdom of Ternate. Some nearby areas, however, were not similarly affected for another two centuries (Reid 1988–93, II: 134). On the west coast, according to tradition, Islam was introduced to the Palu area in 1606 by Abdullah Ragie (also known as Datu Karama), a Minangkabau trader from Sumatra (Azyumardi 2002: 168). Certainly many inhabitants of the Palu Valley converted to Islam in the nineteenth century under the influence of Arab and Bugis traders (Aragon 2000: 90–1).

The Christianization of the highland peoples of Poso began with the arrival of missionaries Albert Christiaan Kruyt (1869–1949) and Nicolaus Adriani (1865–1926) in the 1890s. At this time the Netherlands Missionary Society and Netherlands Bible Society designated Central Sulawesi as a new missionary province, with missionary efforts focused on those indigenous highlanders who adhered to local beliefs (Nadjamuddin 2002; Schrauwers 2000). Using 'ethical theology' to effect a sociological approach to missionary work (Schrauwers 2000: 51), Kruyt and Adriani sparked a religious transformation of the highlands. By 1938 some 42 per cent of Poso's 61,000 inhabitants were baptized (Nadjamuddin 2002: 168–9). Tentena, a small town on Lake Poso, was the proselytizing capital of Central Sulawesi. It was there that in October 1947 the headquarters of the Central Sulawesi Christian Church (Gereja Kristen Sulawesi Tengah, GKST) was established. The GKST went on to establish dozens of schools, hospitals, and churches. By the late 1990s it served it some 328 congregations comprising a total of about 150,000 people (Schrauwers 2000: 84).

Elsewhere in Central Sulawesi, Christianity's acceptance was due in large part to the work of the Salvation Army (Aragon 2000: 118). In 1917 a certain Leonard Woodward established a Salvation Army base near Kulawi in the mountains of western Central Sulawesi (Brouwer 1994: 79; Aragon 2000: 121). From there Christianity was spread quickly though the districts of Pipikoro, Tobaku, Lindu, and the highlands surrounding Palu (Acciaioli 1989: 87). In Palu itself, the future capital of the province, a Salvation Army presence was established in 1932 (Brouwer 1994: 161). At the present time, according to the Salvation Army's own records, it operates 124 churches, 80 outposts, 94 schools (primary to tertiary), 10 hospitals (including polyclinics), and two orphanages in Central Sulawesi (*Radar Sulteng*, 10 September 2003).

Political control

Historically, sizeable kingdoms have existed in Central Sulawesi. The Luwu kingdom, for example, extended its influence throughout the present-day Poso and Morowali districts until the early twentieth century, while several principalities existed in Kaili. External Indonesian powers were also involved in the area: around the Gulf of Palu, the kingdoms of Makassar, Ternate, and Mandar all vied for control over the centuries. Things changed, however, with expansion of Dutch territorial control in the early twentieth century (Henley 2002: 13). One important consequence of this control was the growth of multiple trading centres around the region, particularly in the Gulf of Palu (Poelinggomang 2002: 49). Over time, colonial government policy intensively and extensively affected traditional social and economic structures (Weber et al. 2002).

Independence in 1945 brought the communities of Central Sulawesi into a single political entity within a modern state. Initially part of North Sulawesi, in 1964 Central Sulawesi became an autonomous province. A signal change occurred with the reorganization of traditional village structures into uniform, administrative units called *desa* in the 1970s. With state control enhanced, the desa became an organ of the state within society.

Beside its citizenry, the state also sought control over local resources. It did so through the use of law to extend its reach over mining, forestry, and maritime sectors. State laws ran roughshod over existing adat laws governing the use of land and access to other resources. In other words, adat communities lost control over what they considered to be their resources. Areas traditionally used for agriculture or forest product collection were converted into conservation areas, protected forests, and forestry, plantation, or mining concessions (see Table 14.1). Often these conversion processes involved the use of coercion and repression.

In the early post-Suharto state, fundamental legal changes were enacted to protect adat groups. An amendment to the national constitution of 1945 (Chapter VI, Section 18B, line 2) explicitly acknowledged adat law communities and their traditional rights. In 2001, parliament decreed that agricultural reform (*pembaruan agraria*) and the future management of natural resources would be based on acknowledging, respecting, and protecting the community rights of masyarakat adat. These changes on paper, however, have yet to translate into real gains for adat communities at large. In protracted resource conflicts with capitalists and the state apparatus, adat communities continue to lose out.

Market economy

Since Dutch intrusion in the early twentieth century, nearly all communities in Central Sulawesi have been exposed to the workings of a market economy, although to varying degrees. World demand for resin and ebony helped to

Table 14.1 Allocation of natural resources in Central Sulawesi, 2004 (hectares)

	Area	*Total*
Activities based on natural resources:		
Plantation concession (HGU)	1,240,153	
Forestry concession (HPH)	2,207,721	
Mining concession (KK)	1,187,030	
Subtotal		**4,634,904**
Protected areas:		
Protected forests	1,489,927	
Nature reserves/tourist forests	957,710	
Subtotal		**2,447,637**
Total		**7,082,541**
Size of Central Sulawesi		**6,803,300**

There are overlaps in the areas allocated to the specified activities
Source: Database YTM, 2004 (compiled from official publications)

fuel this process. The Wana people became actively involved in the resin trade (Atkinson 1985: 8) as the Sumara Valley (in present-day Morowali district) became an important resin export centre (Henley 2002: 66). Meanwhile Parigi became a key redistribution centre in the Gulf of Tomini, and in the Poso highlands the Bada, Besoa, Bugis, and Mandar participated in a brisk trade of ebony, rattan, resin, and crocodile skin (Davis 1976: 102, 200). And as a result of the growing global demand for copra, the colonial government instructed each family to plant at least 50 coconut trees (Weber et al. 2002: 19).

The New Order continued the commodification of the area's resources, particularly in ways geared for big business. Once in power, Suharto's regime passed capital-friendly laws on foreign direct investment and the mining and forestry sectors. Of Central Sulawesi's 6.8 million hectares, about 4.6 million (with considerable overlap) were allotted to over 130 private and government-linked natural resource extraction companies (see Table 14.1). Given this situation, conflicts with local people were inevitable. With the decline in the repressive capacity of the state since Suharto's fall, such conflicts have emerged into the open on a larger scale than before.

In addition to large-scale business development, a boom in cloves and later cocoa planting by smallholders has also taken place under market conditions. Cocoa production grew more than a hundredfold between 1988 and 2002, by which time it accounted for almost 90 per cent of all foreign exchange earnings from Central Sulawesi (*Radar Sulteng*, 30 January 2003). This explosion has reflected a fundamental transformation in land ownership and control over the factors of production. Communally owned land has given way to private individual or family control. This has led to

the rampant selling of land by locals to migrants (primarily Bugis) who have converted their purchases into by and large profitable cocoa plantations.

The following three sections look at three specific cases and/or forms of masyarakat adat activism on the ground in Central Sulawesi: opposition to a major dam project in the Lore Lindu area, the use of community-based mapping, and the development of the provincial masyarakat adat umbrella organization AMASUTA. In each case an attempt is made to identify useful lessons for the future.

Rejecting PLTA Lore Lindu

In the early 1990s, government plans to develop a hydro-electric power station (*pembangkit listrik tenaga air*, PLTA) in the Lore Lindu area became a hotly debated topic. Implementation would require the displacement of thousands of local residents and the flooding of thousands of hectares of the Lore Lindu National Park, one of the region's largest conservation areas (Sangaji 2000). Debate intensified when local NGOs, working together with NGOs from Jakarta, began to consult with and organize local communities in the areas to be affected (Sangaji 2000; Acciaioli 2001a, 2001b; Aditjondro 2001). The inhabitants were informed of their rights and encouraged to specify the local natural resources under their customary control, conduct collective protests, and communicate with the media. Instances of rural resistance elsewhere, like the Kedungombo Dam conflict in Central Java, were held up as examples to be followed. Partly as a response to the growing protest, the Indonesian government ultimately abandoned the Lindu hydroelectric plan.

A prominent aspect of these developments was the instrumental use of the term masyarakat adat based on the Toraja definition as discussed above. The term gained public recognition as it was featured in NGO press statements and media interviews. In protest statements sent to the government and in dialogues with officials, Lindu people now started referring to themselves as *masyarakat adat Lindu*. Despite the success of the campaign against the dam, the use of the term masyarakat adat as a basis for community organization has its shortcomings. Li (2001: 16) critically observes that NGO documents portray Lindu people as unique, possessing intimate knowledge of their environment, and sharing a spiritual connection with nature. No mention is made of the long Dutch and Christian influences on their society, whereby much of their traditional religion has been eclipsed or abandoned. Nor is it mentioned that they share their homeland around Lake Lindu with sizeable communities of Bugis and other non-Lindu migrants, to whom they have sold part of their traditional territory through voluntary transactions. Inspired by Li's critique, I began to reconsider the use of masyarakat adat. As the PLTA protests intensified, it seemed to me, it was mainly the local Bugis who kept the agricultural economy afloat, and mainly through the NGOs that the anti-PLTA sentiments took on ethnic dimensions and the struggle became identified solely with the Lindu ethnicity.

Another disconcerting issue was the way in which the putatively indigenous territory of the Lindu was being articulated. It was 'common knowledge' that the people now known as the Lindu had actually moved to there from the Palu and Napu valleys at a relatively recent period in (oral) history (Kaudern 1925: 9). How indigenous does an indigenous people have to be to acquire territorial rights over its current homeland? And then there was the uncomfortable fact that although the national park was delineated without consulting the Lindu, and had dispossessed them of part of what they now identified as their ancestral territory, they had not protested. There were two principal reasons for this. One was that at that time, in 1993, the expropriated territory was economically insignificant to the Lindu. Whereas elsewhere in the park local people collected commercial forest products like rattan or were engaged in swidden farming or cocoa planting, the Lindu were more involved in farming wet rice at the banks of the lake. With no road access as yet to the Lindu plateau, gathering forest products was not profitable. The other reason for the lack of initial resistance was that at this period the New Order's repressive capacity was at its peak, making the costs of open protest prohibitively high.

To point out that the term masyarakat adat does not do justice to the diversity, history, and interconnectedness of a people like that of the Lindu plateau is not to argue that the term should simply be avoided. Rather it should be used tactically, to help counter forces such as state developmentalism and extractive big business which trample the rights of local people.

Community-based mapping and the recognition of adat territory

Beginning in 1996, an NGO with which I am associated – Yayasan Tanah Merdeka (YTM) – introduced a new approach to masyarakat adat advocacy in the Lindu plateau area. YTM collaborated with a Canadian NGO, the Silva Forest Foundation, of which a staff member (Alex Flavell) trained several YTM activists and others in community-based or participatory mapping. This approach was already in use by a number of NGOs in Kalimantan and the Moluccas. Participatory mapping is a process whereby local communities map the distribution of their natural resources, land use patterns, social orders, and ownership structures. The process becomes an instrument through which the community can observe its social relationships in relation to the management, ownership and control of natural resources. Lindu adat territory (*suaka ngata*) is traditionally divided into *suaka ntodea* or land for use, *suaka nu lambara* or land for hunting, and *suaka nu viata* or conservation areas (Laudjeng 1994). This typology was adopted as the basis for participatory mapping.

Participatory mapping produces a map which can be used as a tool for claiming and protecting territories and resources when a community is faced with predatory outsiders. In Lindu it was the PLTA threat which formed

the immediate background to the mapping initiative, but the hydroelectric scheme was cancelled before the map was complete. In 1997, however, participatory mapping came into its own when YTM and other local NGOs opposed an Asian Development Bank scheme known as the Central Sulawesi Integrated Area Development and Conservation Project. This called among other things for a community called Katu, inhabited by members of the Besoa ethnic group and located within the Lore Lindu National Park, to be moved to a new location outside the park boundaries (Sangaji 2002). As usual, the opposition to the project used the language of the masyarakat adat movement. In this case the term was appropriate to the extent that, in contrast to Lindu, Katu is rather homogeneous in ethnic composition. As in Lindu, however, the population of Katu is thought to have migrated to its present location from neighbouring areas in relatively recent times, although it was certainly there by the 1930s (Kruyt 1984: 259).

Besides organizing protests against and drawing media attention to the proposed resettlement, YTM also facilitated the mapping of the Katu adat territory and its resources (Sangaji 2002). Local enthusiasm for this initiative exceeded expectations, reflecting high hopes that it would lead to official recognition of the existing territorial rights. As long as the New Order remained in power, the Katu claim continued to be rejected even though it was clear that the village had existed since long before the national park was created. But the reform movement (*reformasi*) of May 1998 changed everything. Now the head of the national park office, Ir Banjar Yulianto Laban, engaged in a series of dialogues with the Katu and their representatives. In April 1999 he released a letter permitting the masyarakat adat of Katu to continue occupying and using a land area of 1138 hectares within the park. Banjar based his approval on the fact that the community had mapped its territory, that its traditional land use practices would not destroy the park, and that it was willing to manage its territory collectively. This concession prompted YTM to organize similar activities, again including participatory mapping and again with success, for two more communities located partly or wholly within Lore Lindu National Park. Disappointingly, however, these examples did not lead any of the other villages located around the boundaries of the park – of which there are more than 60 in total – to wage similar campaigns on a spontaneous basis without direct YTM assistance.

This experience provides at least two valuable lessons. Firstly, under favourable political conditions, participatory mapping can be an effective weapon in the struggle for recognition of customary land rights. Secondly, NGO intervention and guidance may remain preconditions for its deployment even when its usefulness has been clearly demonstrated. This leads to moral dilemmas in which NGOs with limited means must choose which communities to help, and which not to help. Participatory mapping as practised in Lore Lindu has been a case of 'counter-mapping' in the sense referred to by Peluso (1995): a strategy of contesting the territorial claims of the state using comparable claims on the part of local communities.

From incidental to organized resistance: the case of AMASUTA

Before the fall of Suharto, the masyarakat adat movement in Central Sulawesi was characteristically limited in that it was based at the local and village (*desa*) level. This can be seen in several incidents of protests by masyarakat adat. The resistance against the PLTA Lore Lindu, for instance, was a movement of the inhabitants of the Lindu plateau. Although it also involved NGO activists, students and nature groups (Sangaji 2000), its cause and goals were specific to that locality and there was no evidence of connections with other communities elsewhere in Central Sulawesi. This narrowness of purpose soon attracted criticism from the students and activists involved. So too did the parallel tendency toward elitism which emerged in several of the province's local masyarakat adat movements, with small groups of villagers emerging to monopolize the representation of their communities without any clear designation of responsibilities. Such people became 'stars' overnight, travelling far and frequently at the expense of NGOs and their donors. NGOs, for their part, tended to practise their own kind of elitism by monopolizing public relations, publicity, and lobbying in relation to particular communities under their guidance. Where this happened the communities in question were not motivated or educated to stand up for their own interests, and remained dependent on their NGO mentors.

A movement that is local and cause-based, and makes limited claims, is unlikely to solve the root problems necessitating those claims. Three fundamental problems which occur in every masyarakat adat conflict in Central Sulawesi are a lack of guarantees for indigenous peoples' land rights; pro-capital policies of resource management; and involvement of the military in resource conflicts. These problems cannot be resolved by means of local community advocacy, but call for a broader kind of movement transcending local boundaries. They also call for permanent organizational forms with institutionalized and democratic leadership, rather than informally led, personalistic, ad hoc coalitions which disband when (some of) their short-term demands are met.

Concurrently with the fall of Suharto in 1998, a number of NGOs based in Palu for the first time facilitated a collective action involving masyarakat adat in many parts of Central Sulawesi. On 22 June 1998 representatives of adat communities in Bungku, Katu, Doda (Poso district), Lindu, Tompu, Kayumalue (Donggala district), and Dondo (Toli-Toli district) joined in protest outside the provincial assembly (DPRD) in Palu. Taking turns to speak and challenge policies detrimental to their own particular groups, they also put forth more general and abstract demands, such as a call for laws to protect the rights of masyarakat adat to control natural resources within their territories (*Surya*, 23 June 1998).

Following this collective action, meetings were conducted to discuss the founding of an umbrella organisation for masyarakat adat throughout the province. It was at one of these meetings, in the village of Mbuvu near

Donggala, that AMASUTA was born (Saleh 2003: 159). Its first congress was held in Palu on 16–20 May 2000, not long after the first AMAN congress in Jakarta (see Moniaga in this volume, Chapter 12), and was attended by more than a hundred representatives from dozens of masyarakat adat groups around the province. Many of the groups represented were involved in specific conflicts either with the government, or with corporations engaged in extracting natural resources. Participants ranged from a Muslim retired civil servant from Bungku to a delegate from Wana who adhered to tribal religion, could not speak Indonesian, and wore no shoes. Others included a swidden farmer being pressured to leave his home both by the government, with its Resettlement of Marginalized Peoples (PKMT) scheme, and by a state-licensed plantation company eager to take over his land.

Technical support for the congress was provided by several of the NGOs based or present in the province. Financial support, to the tune of Rp 27 million (US$3500), came from the Biological Support Programme Kemala, a joint project involving the World Wide Fund for Nature and the Nature Conservancy and funded by the US Agency for International Development. The organizing committee had also invited several government officials and politicians, including acting deputy governor of Central Sulawesi Yahya Patiro, who gave a welcome speech at the opening ceremony.

The congress concluded with a demonstration at the provincial assembly building, where both collective and local demands were presented. The government was called upon among other things to revoke the permits of 24 corporations operating in Central Sulawesi; to manage village administration according to the principle of indigenous rights; to guarantee farmers' freedom to choose what crops and commodities they produce; and to eradicate all forms of intimidation and discrimination against the masyarakat adat (*Surya*, 22 May 2000; *Mercusuar*, 22 May 2000). A more specific demand was for the cancellation of the provincial governor's decree 592 of 1993, an ordinance which effectively declared that all land in Central Sulawesi not already covered by an ownership certificate was the property of the state.

Working together with a number of NGOs, AMASUTA facilitated the formation of local masyarakat adat alliances at sub-provincial level. These included the Aliansi Masyarakat Adat Togian (AMAT) in the Togian islands and the Dewan Adat Masyarakat Dondo (Dondo Adat Community Council, DAMD) in Toli-Toli. In contrast to conditions under the New Order, this was now possible without obstruction from government quarters – except, that is, in the case of Toli-Toli where the district head, a local aristocrat, obstructed plans for a Dondo masyarakat adat congress in February and March 2002 (*Radar Sulteng*, 9 February 2002). The adat house and congress hall which was built by volunteers from Dondo was burnt down by unknown arsonists (*Radar Sulteng*, 19 February 2002). It was also alleged that Marwan Dahlan, director of Dopalak Indonesia, the

NGO supporting the congress, was the son of a former communist (*Investigasi*, 25 February 2002). However, the congress proceeded as planned and the DAMD was successfully formed, complete with management, work programme, and organizational statute (*Laporan Kongres* 2002). AMASUTA was also involved in various action networks, which were *ad hoc* in nature. Among their activities is the joint commemoration by farmers, NGOs, students, and labourers of Farm Day (*Hari Agraria*) and of Labour Day (1 May) as celebrated all over the world.

It is perhaps still premature to evaluate AMASUTA considering the relatively young age of the organization. But in its development so far, it has undeniably experienced organizational problems. Like most NGOs, AMASUTA is financially dependent on donor foundations, a circumstance which may moderate its political activities and lead it to neglect possibilities for self-funding on the basis of its own constituency. Secondly, AMASUTA has faced issues of control and accountability in project management. This has resulted in intrigue, conflicts, and fissures among the activists involved.

Despite these shortcomings, organizations like AMASUTA deserve to be supported. Their existence strengthens the masyarakat adat movement as a whole, and provides opportunities for mutual learning and co-operation amongst the diverse communities which they bring together. The resulting knowledge, experience, and skills not only help those communities in their immediate struggles but will also stand them in good stead for facing other, unforeseeable economic or political challenges in the future.

Appropriation of masyarakat adat issues

As the masyarakat adat movement has grown and developed, politicians and businessman have endeavoured to use it for their own purposes – most importantly, to mobilize political support and to facilitate development projects. This appropriation of masyarakat adat issues was already evident in 1996 when Aminuddin Ponulele, then rector of Tadulako University in Palu and head of the Golkar leadership committee in Central Sulawesi, was appointed 'Chief of the Lauje Tribe' (*Kepala Suku Lauje*) in an adat ceremony organized by Sutomo Borman, a Golkar activist from Tinombo (*Kompas*, 9 October 1996). This manoeuvre seems to have been part of a plan to facilitate Aminuddin's bid to become governor of Central Sulawesi. When Aminuddin was duly appointed governor, Borman became head of the Golkar district committee in Donggala.

After the 1998 reformation, the elite appropriation of masyarakat adat issues intensified as the new policy of regional autonomy and decentralization facilitated the political exploitation of adat sentiments. This was evident in 2003 and 2004 during the election of district heads. In the districts of Parigi and Moutong, for instance, Pepitu Muhammad Al-Amin, an aristocratic adat expert from Tinombo in the north, threatened to separate Tinombo from Central Sulawesi and join the neighbouring province of

Gorontalo if four local princes were not accepted as bupati candidates (*Nuansa Pos*, 20 May 2003). In Donggala district one candidate was supported by a group calling itself *Masyarakat Adat Donggala* (*Nuansa Pos*, 10 December 2003), and one adat chief proposed to choose and appoint the district head directly according to adat principles rather than democratic procedures (*Radar Sulteng*, 9 March 2004; *Nuansa Pos*, 9 March 2004). In the event, the democratically successful candidate was instead ceremonially ratified by adat authorities from all parts of the district, receiving the traditional title of *magau* or 'king'. Among those present at the ceremony were the rector of Tadulako University and the head of the provincial representative assembly.

In Banggai on the east coast of Central Sulawesi, the entanglement of adat with power politics is even more complete. Muhammad Chair S. Amir, also known as Hideo Amir, is heir to the throne of the historic kingdom of Banggai. He is also commissioner for a business group, Nyiur Mas Inti, which has interests in plantations, prawn farming, construction, forestry, sawmills, and shipping in Banggai and Luwuk. Faced with opposition to Nyiur Mas Inti operations from local communities co-ordinated by the Aliansi Masyarakat Adat Banggai, one of the sub-provincial adat alliances associated with AMASUTA, Hideo Amir countered by forming his own Adat Council of Banggai (Lembaga Kerapatan Adat Negeri Banggai) with himself as its head (Aditjondro 2003).

Conclusion

The communities now referred to as masyarakat adat in Central Sulawesi are not isolated and changeless, but have long histories of migration, religious conversion, foreign political domination, and market incorporation, all of which interactions with the outside world have affected them deeply. These communities can only be understood as complex and dynamic entities. Having participated in the masyarakat adat movement as an NGO activist since the early 1990s, I have realized that the 'Toraja definition' of masyarakat adat as used by NGOs is no longer relevant in the Central Sulawesi context. It is important now to devise a new definition which does justice to the historicity of the societies in question.

In my view the masyarakat adat movement in Central Sulawesi is in the first place a reaction to restricted and unjust forms of economic development. In particular it reflects the failure of development projects based on resource extraction, whether initiated by the government or by the (local and foreign) private sector, to take into account the interests of the groups which have come to be known as masyarakat adat.

This is not the only factor, however. Another is the involvement of educated urban groups, and beyond them international organizations and networks, which have facilitated the masyarakat adat struggle. Lastly, the 1998 reformation has been a fertile ground for the growth and expansion of the movement.

Today the masyarakat adat movement in Central Sulawesi faces major challenges. Indonesia's transition to democracy remains incomplete, and adat is increasingly abused by regional politicians and economic actors in their attempts to build new oligarchies in the post-New Order era. In the future, I believe, it will be important for the movement to base itself on two fundamental principles. First, it has to embrace the ideal of equality, oppose hierarchy and exploitation, distance itself from elite interests, and avoid any relations with attempts to revitalize feudalism. In other words, the masyarakat adat movement should be a movement of and for the oppressed classes. Second, it should be a movement which has nothing to do with ethnic exclusivity. Ethnic identity may be its starting point, but it must never articulate ethnocentric sentiments. Rather, the masyarakat adat movement must promote ethnic diversity as the source of its strength.

Note

Translated from the Indonesian by Suryakenchana Omar. Original title: *Otokritik terhadap gerakan masyarakat adat di Indonesia: pelajaran dari Sulawesi Tengah*.

References

Acciaioli, G.L. (1989) 'Searching for good fortune: the making of a Bugis shore community at Lake Lindu, Central Sulawesi', unpublished thesis, Australian National University.

—— (2001a) 'Grounds of conflict, idioms of harmony: custom, religion, and nationalism in violence avoidance at the Lindu Plain, Central Sulawesi', *Indonesia*, 72: 81–112.

—— (2001b) 'Memberdayakan kembali "kesenian *totua*": revitalisasi adat masyarakat to Lindu di Sulawesi Tengah', *Antropologi Indonesia*, 25 (65): 60–83.

Aditjondro, G. (2001) 'Go with the flow: the fluctuating and meandering nature of Indonesia's anti-large dam "movement"', paper presented at the KITLV Jubilee Workshop 'Water as a life-giving and a deadly force: water and the state, past and present', Leiden, 14 June.

—— (2003) 'Gerakan masyarakat adat: mengayuh di antara batu karang dan pusaran air di laut lepas', *Seputar Rakyat*, 1–5 (June): 15–17.

Andaya, L.Y. (2004) *Warisan Arung Palaka: sejarah Sulawesi Selatan abad ke-17*, Makassar: Ininnawa.

Aragon, L.V. (2000) *Fields of the Lord: animism, Christian minorities, and state development in Indonesia*, Honolulu: University of Hawai'i Press.

Atkinson, J.M. (1985) 'Agama dan suku Wana di Sulawesi Tengah', in M.R. Dove (ed.) *Peranan Kebudayaan Tradisional Indonesia dalam Modernisasi*, Jakarta: Yayasan Obor.

Azyumardi Azra (2002) *Jaringan Global dan Lokal Islam Nusantara*. Bandung: Mizan.

Brouwer, M.M. (1994) *Zamrud di Khatulistiwa: sejarah gereja Bala Keselamatan di Indonesia; Jilid I: 1894–1950*, Bandung: Intergrafika.

Charras, M. (1997) *Dari Hutan Angker Hingga Tumbuhan Dewata: Transmigrasi di Indonesia; Orang Bali di Sulawesi*, Yogyakarta: Gajah Mada University Press.

Davis, G. (1976) 'Parigi: a social history of the Balinese movement to Central Sulawesi, 1907–1974', unpublished thesis, Stanford University.

Davis, S.H. and Soeftestad, L.T. (1995) *Participation and Indigenous Peoples*, Washington, D.C.: World Bank, Social Development Paper 9.

Gooszen, H. (1999) *A Demographic History of the Indonesian Archipelago, 1880–1942*, Leiden: KITLV Press.

Haba, J. (1998) 'Resettlement and sociocultural change among the "isolated peoples" in Central Sulawesi, Indonesia: a study of three resettlement sites', unpublished thesis, University of Western Australia.

Harvey, B.S. (1989) *Pemberontakan Kahar Muzakar: dari tradisi ke DI/TII*, Jakarta: Grafiti Pers.

Henley, D. (2002) *Jealousy and Justice: the indigenous roots of colonial rule in northern Sulawesi*, Amsterdam: VU Uitgeverij.

Kaudern, W. (1925) *Migrations of the Toradja in Central Celebes*, Göteborg: Elander, Ethnographical Studies in Celebes, 2.

—— (1940) 'The noble families or Maradika of Koelawi, Central Celebes', *Etnologiska Studier*, 11: 31–124.

Kingsbury, B. (1995) '"Indigenous peoples" as an international legal concept', in R.H. Barnes, A. Gray, and B. Kingsbury (eds) *Indigenous Peoples of Asia*, Ann Arbor, Michigan: Association for Asian Studies.

Kruyt, A.C. (1984) *De West-Toradjas op Midden-Celebes* (Indonesian translation), Palu: Proyek Pengembangan Permuseuman Sulawesi Tengah.

Laporan Kongres Masyarakat Adat Dondo Kabupaten Toli-Toli Sulawesi Tengah (2002), Toli-Toli: Dopalak Indonesia, 28 February–3 March 2002.

Laporan Prosiding Sarasehan dan Hasil Kongres Aliansi Masyarakat Adat Sulawesi Tengah (2000), Palu: AMASUTA.

Laudjeng, H. (1994) 'Kearifan masyarakat adat Lindu', in Arianto Sangaji (ed.) *Bendungan, Rakyat, dan Lingkungan: catatan kritis rencana pembangunan PLTA Lore Lindu*, Jakarta: WALHI/Yayasan Tanah Merdeka.

Li, T.M. (2001) 'Articulating indigenous identity in Indonesia: resource politics and the tribal slot', Berkeley: Institute of International Studies, University of California (working paper).

—— (2002) 'Cocoa and class in upland Sulawesi', *Development and Change*, 33: 415–37.

Mattulada (1991) 'Manusia dan kebudayaan Kaili di Sulawesi Tengah', *Antropologi Indonesia*, 15 (48): 110–82.

Nadjamuddin, L. (2002) *Dari Animisme ke Monoteisme (Kristenisasi di Poso 1892–1942)*, Yogyakarta: Yayasan Untuk Indonesia.

Peluso, N.L. (1995) 'Whose woods are these? Counter-mapping forest territories in Kalimantan, Indonesia', *Antipode*, 27: 383–406.

Poelinggomang, E.L. (2002) *Makassar Abad XIX: studi tentang kebijakan perdagangan maritim*, Jakarta: KPG.

Reid, A. (1988–93) *Southeast Asia in the Age of Commerce 1450–1680* (2 vols), New Haven, Connecticut: Yale University Press.

Saleh, R. (2003) *Dari Insidentil ke Perlawanan Terorganisir*, Jakarta: Yappika/Rainforest Foundation.

Sangaji, A. (2000) *PLTA Lore Lindu: Orang Lindu menolak pindah*, Yogyakarta: Pustaka Pelajar.

—— (2002) *Politik Konservasi: Orang Katu di Behoa Kakau*, Bogor: KP-SHK.

Schrauwers, A. (2000) *Colonial 'Reformation' in the Highlands of Central Sulawesi, Indonesia, 1892–1995*, Toronto: University of Toronto Press.

Setyoko, I. (1998) 'Upaya pemerintah Indonesia dalam pembangunan masyarakat terasing', paper presented at a UNDP/UNESCO seminar on masyarakat adat, Jakarta, 6 August.

Sulawesi Tengah dalam angka 1998 (1999), Palu: BPS Propinsi Sulawesi Tengah/ Bappeda Propinsi Sulawesi Tengah.

Weber, R., Faust, H., and Kreisel, W. (2002) 'Colonial interventions on cultural landscape of Central Sulawesi by "Ethical Policy": impacts of the Dutch rule in Palu and Kulawi valley 1905–1942', Bogor: STORMA (Stability of Rain Forest Margins) Project, discussion paper.

15 Adat in Central Sulawesi
Contemporary deployments[1]

Tania M. Li

The term *adat* (custom) is used frequently in Central Sulawesi. It has multiple meanings, and is picked up and instrumentalized for a variety of purposes. Although various authorities believe they know what adat is or should be, the polyvalence of the term makes it difficult to control. To invoke adat is to claim purity and authenticity for one's cause. Adat is deemed to be naturally present in, indeed the essence of, Indonesian society. It also, paradoxically, defines an arena of intervention: adat is represented as fragile, deficient or in decline, in need of protection, strengthening and restoration. It shares these characteristics with the concept of community, imagined as a natural state that nevertheless requires intervention and correction in order to make it complete. These features of the term adat render it deployable for a wide range of political projects. On one end of the spectrum are attempts to institute orderly rule through adat. The adat invoked in the service of rule is conceptualized as hierarchical but still democratic, because it emerges from the people; it is disciplinarian but promotes harmony. On the other end of the spectrum are attempts to challenge state authority in the name of popular rights and capacities for self-government and social justice. Central to the oppositional agenda is the reclaiming of customary rights to land appropriated by the colonial regime and its successors. As I will show, one agenda for adat promotion and restoration can slide into or indeed be reversed by another, using key terms such as sovereignty, autonomy, and responsibility to different effect.

My goal in this chapter is to provide an inventory or map of some contemporary deployments of the term adat that I have observed in Central Sulawesi over the past five years. I outline the contexts in which they have arisen and the projects they serve, and explore the stakes implied by the idiom of adat for different parties. Three features of Central Sulawesi render it especially interesting for an investigation of this kind. First, as Sangaji explains in this volume (Chapter 14), social and cultural formations in Central Sulawesi have been shaped by histories of migration, long-standing links to markets and state or chiefly regimes, and the influence of world religions. As a result, the issue of which social groups qualify as customary communities, and the nature and extent of their customary rights, is a

matter of contention and debate. The vicissitudes of the adat concept in this province serve to highlight dilemmas in the adat rights movement that are not unique to Central Sulawesi, but arise there in especially concentrated forms.[2] Second, Central Sulawesi is a province in which the discourse of adat serves as an effective means of rallying and organizing political action. For this reason, it cannot be ignored or dismissed as esoteric, antiquarian, or reactionary, or critiqued with a view to replacing it with an alternative such as the idiom of class. For better or worse, the discourse of adat is a political force. Finally, Central Sulawesi has been the site of violent conflict since 1998, focused in the city of Poso and its environs, but extending to the city of Palu and to rural areas such as Morawali. Although often presented in media accounts as a struggle between Muslims and Christians, the relationship between identity and territory, or the right of one group to rule by virtue of its historic attachments to a place, a right understood as customary or adat-based is centrally at issue. By tracking diverse deployments of adat I hope to shed some light on why the concept has become relevant or compelling for different groups in Central Sulawesi at the current time.

Adat in formal national law

The term adat appears in an impressive number of national laws and regulations from the 1960s onwards. Although the New Order regime was accused of trampling customary rights through its Forest Law of 1967, clauses of that law and numerous other legal instruments of the New Order period continued to refer to adat communities and adat rights (Sirait et al. 2000). As Sangaji notes in this volume, adat rights were recently confirmed in a constitutional amendment, and in a parliamentary declaration (TAP MPR IX, 2001) on Agrarian Reform and Natural Resource Management. Yet reference to adat in formal national law does not circumscribe or even clarify the question of who and where and what are adat communities. Rather, national law supplies a problematic to which people in Central Sulawesi concerned to assert adat rights have to respond. If laws state that adat communities are to be recognized so long as they exist, the critical question is how and by whom that existence is determined. For Ronny Toningki (2003: 1), elected head of Central Sulawesi's adat rights organization AMASUTA, the questions of who and what and where exactly need to be answered concretely, by criteria and definitions that can be made operational. Otherwise, he argues, adat rights will continue to exist only on paper. There is a great deal at stake in definitions and in the processes through which criteria are established.

In Central Sulawesi, the governor of the province announced in 1993 that there was no adat land in Central Sulawesi, because all the land in the province is classified as *bekas swapraja*, royal domain passing to the national government at independence. He was supporting a 1992 ruling by the National Land Agency (BPN) that procedures for formalizing individual

land rights would take the form of grants of state land, rather than recognition of pre-existing customary rights. However the governor has not provided any supporting evidence or arguments for the claim that there is no adat land, and AMASUTA has been calling for the ruling to be revoked. As Sangaji points out, there is lots of documentation about the existence of local, customary tenure regimes all over the province but little or none about the purported sovereignty of the rajas over territory and natural resources (Sangaji 2003: 18). AMASUTA is arguing for a provincial regulation (Perda) on the existence of customary communities, and hopes to take the initiative in defining criteria for recognition. But AMASUTA, as Toningki (2003) laments, is equally unclear about who should be recognized as adat communities.

One solution to the problem of legal recognition is to proceed on a spatialized basis by mapping customary territories. AMASUTA has made such mapping part of its work plan (AMASUTA 2003). At a seminar sponsored by AMASUTA in 2000 in connection with its first congress, representatives of the National Land Agency urged AMASUTA to proceed with mapping customary lands as soon as possible, so that BPN would know the extent of customary claims and could avoid allocating the same land to plantations or other ventures (AMASUTA 2000: 103). BPN officials were quite prepared to accept the existence of customary communities – they just wanted to know who and where they are.[3] The same request was echoed by representatives from other government departments at the seminar. Mapping, however, is unlikely to solve the problem.

Following its first congress, in 2001 AMASUTA held an executive meeting to prepare a detailed work plan. I attended this meeting as an observer. During discussions of mapping, most participants argued that they already had maps – their *desa* (village) maps. They saw little point in trying to devise a separate map covering their *wilayah adat* or customary domain. The few who advocated the mapping of wilayah adat had made maps in co-operation with non-governmental organizations (NGOs) in the context of particular struggles, notably the struggle to recover access to ancestral land enclosed by the Lore Lindu National Park, a process described by Sangaji (this volume, Chapter 14). These maps document the presence of human agency in the creation of the 'nature' protected by the park, and advance the customary claim that investments of labour confer enduring rights. Mapping of this kind is particularly relevant on land claimed by the state to be state forest, especially where there are relatively isolated hamlets located far from the centre of the desa. In many cases, however, desa maps or counter-maps could serve equally well to reassert the claims of local forest users against the state. In a study of forest villages in Java, Hery Santoso (2004) found that forest department maps showed extensive areas of state forest land marked by small, scattered dots representing human settlement. Very little land was attached to these dots. The maps create the impression that villages are merely clusters of dwellings accommodated precariously

and awkwardly on state forest land. The administrative system, by contrast, constructs the entire territory of Indonesia as a grid of provinces, districts, sub-districts and desa. If one adds up the total land area of all the desas described in the official annual release of statistics, they total the land area of the sub-district, the sub-districts together total the land area of the districts and so on. There is no land that is not within a desa, so state-claimed forests must fall within desa boundaries. From this perspective, desa are blocks of land, not fragile dots. Santoso found that desa headmen felt disempowered in their dealings with the forest industry because they did not have desa maps showing their boundaries.[4] But even if desa boundaries in forested areas remained unmarked, and desa control over state-claimed forests effectively suspended, the territorial jurisdiction of the desa continued to exist as a counter-claim during the New Order. It has been significantly strengthened by the regulations for desa autonomy discussed below.

The complex overlapping of adat claims, desa boundaries, and state-claimed forests was revealed in one very contentious land case in the province. In 2001 a group of farmers occupied the Dongi-Dongi Valley in a corner of the province's principal national park, the Lore Lindu National Park. Leaders from the adjacent village of Sedoa opposed the land occupation, claiming that they held customary rights to the land. Dongi-Dongi settlers regarded Sedoa's adat claim as weak, however, because they had failed to defend their customary rights *vis-à-vis* the Park, which had effectively appropriated their land. When I asked Sedoa leaders about their relationship to this land in 2003, their principal argument did not refer to adat. They argued, rather, that the Dongi-Dongi Valley, although 20 kilometres away from the Sedoa village centre, falls within the desa boundary which had been established by government administrators in 1973. Their other boundaries had been established by the Dutch, albeit indirectly. The Dutch had instituted a system for licensing the trees that produce the resin dammar by attaching a tin plate that bore the name of the owner and the village. Sedoa villagers envisage their boundary with the neighbouring desa, Alitupu, as the line where the licence markers change. It is mountainous, forested terrain, also claimed by the forest department. Thus they find themselves with a clear sense of their territorial boundaries, but unable to exercise jurisdiction over their land.

In the case of Sedoa and other highland villages I have visited, concepts of customary territory were shaped by the Dutch and have become interlaced with the territorial system of the desa to the extent that they are difficult to separate. This is why making adat maps made little sense to some of the participants at AMASUTA's work plan meeting: they felt their desa maps would suffice. Further, while any group can make a map of the land and natural resources used by its members past and present, this operation does not help government agencies or AMASUTA to identify which communities qualify as adat communities with special rights protected by national law. Finally, the National Land Agency's hope that maps of adat

lands would help to identify blocks of land free from adat claims that can be allocated to other users will not be realized in cases where adat claims become co-extensive with the desa.

As Sangaji shows in his chapter (Table 14.1), the total area of land controlled by various government agencies (forestry, mining, estate crops) already exceeds the provincial total, leaving no space in which customary rights could be exercised, no space, indeed, for any villagers to pursue their farming activities undisturbed. In practice, there are on-the-ground compromises which enable villagers to continue to use at least some of their land, but the majority of Central Sulawesi's farmers lack tenure security and are vulnerable to displacement by more powerful claimants backed by official licences. The problem of insecurity is not confined to culturally unique or minority communities.

Arguably the search for identifiable adat communities, imagined as culturally distinct from the surrounding population, spatially concentrated, and sharing common resources – communities that might fit the slot of masyarakat adat named in law – has distracted attention from the fact that the majority of Indonesians outside Java access land and resources on an adat or customary basis. As Daniel Fitzpatrick points out in this volume (Chapter 6), 20 per cent at most of all Indonesian landholders have formal certificates of title. The rest access land through some version of customary tenure, or on the basis of semi-official or hybrid official-customary practices and understandings that are deeply insecure.

According to legal scholars the key feature of customary or community-based tenure is not that it is communal. It is that the tenure system is generated and recognized by the community in question (Lynch and Harwell 2002). In a customary tenure system the principal guarantee of an individual's rights to use individual or collective resources is that those rights are understood and supported by the surrounding community, and can thus be defended. Villagers know the extent of their individual and collective rights, and can be brought before the village head and/or the village adat council if they transgress customary rules. Customary tenure is dynamic, because villagers' understandings of what is normal or acceptable or fair change with the times. It is still, however, the community rather than national law that is the principal entity defining and guaranteeing rights on an everyday basis.

Although NGO promoters of the masyarakat adat concept assert that resource ownership tends to be communal (Nababan 2003), customary tenure in Central Sulawesi can be called communal only in a specific and limited sense. Members of a village or hamlet generally have common access to adjacent forests as the source of products for use and sale, while outsiders must seek permission. The customary principle for recognizing individual tenure is the investment of labour in the current or previous generations. The marking and protecting of trees that produce resin and sago confers individual ownership, as does the clearing of forest for swidden by the

original pioneer. These rights are passed on to future generations, often in undivided form, the descendants of the original owner using the resource in rotation. Inherited wet-rice fields (*sawah*) are usually divided among the descendants, opening the way for commoditization and sale. The selling of the previously undivided, inherited swidden pool is a new practice that has arisen with the arrival of tree crops such as cocoa and new migrant populations seeking to purchase land. It is a deeply contested practice, new 'customs' for which have yet to emerge (Li 2002c).

The registration of land for taxation serves as a formalization of customary tenure, but many people have additional land they are reluctant to register if it is not in production. Insecurity for villagers holding customary rights exists not only at the collective level, when large blocks of land villagers have been using are appropriated by the government and assigned to other users (timber concessions, plantations, mining, and so on). Insecurity also exists at the individual level, particularly among relatively poor and powerless villagers. In many places village elites have monopolized fallowed swidden land for their own use or sale. Napu villagers dismayed at the way the elite have been selling off land to migrants see this as a land grab thinly disguised by idioms of custom: 'Whoever has power, they say their ancestors cleared a lot of land. Their ancestors must have been superhuman! When they say it is the land of "ancestors", it was lots of peoples' ancestors, not just their own.' Such practices provoke land-poor villagers to reject the customary concept of initial labour investment in land clearing as the sole basis for assigning land, and assert their right to land and livelihood as residents of the village and citizens of Indonesia, a right guaranteed by the constitution. Their sense of entitlement is hybrid and supports, in limited but important ways, a state right of allocation.

On an everyday basis, legal uncertainty gives village headmen significant scope to recognize and defend the customary rights of villagers to land invested with labour *or* to appropriate this land to sell it or reassign it according to their own assessment of rights and interests. It permits them, in short, to act as sovereigns who can dispossess a land holder when they want to access the land themselves, or favour one party in a dispute, or plan to sell the land to a third party. To justify their actions, headmen in the Sulawesi hills apply various 'rules' which purportedly limit the validity of customary rights to swidden land. They tell villagers that their customary rights lapse if the land has not been used for five years, or if the area exceeds 2 hectares, or if no permanent improvements (tree crops, terracing, irrigation) have been made, or if the land has not been registered with the headman, or taxed, or issued with a certificate. The legal standing of any of these 'rules' would certainly be disputed by legal experts on customary land rights. But in the absence of such countervailing knowledge and support, a headman's bullying along these lines is sufficient to unsettle villagers who are isolated and unsure of their ground. Legitimations for appropriations by village headmen tend to stress 'development' and, more specifically, the need to

improve the land to make it productive, as an example for backward villagers (Li 1996).

Ironically, land which has been bought and sold has a stronger legal status than land that is still in the possession of the customary owner or owners. Land sales are documented by the issue of an official letter, an *akte jual-beli*, witnessed and stamped by the sub-district chief (Burkard 2002b: 11). By officializing these transactions, the sub-district official effectively acknowledges the customary ownership rights of the land-seller: if not, why would the seller be required to sign the sale document? An official who did not recognize the prevailing customary land tenure system would be unable to facilitate these routine transactions, resolve local disputes, or collect the attendant fees. Yet the recognition is partial and easily ignored or circumvented when there are more powerful claimants.

Masyarakat adat in national and provincial advocacy

The term masyarakat adat was devised by NGOs at a meeting in 1993 as a translation for the category Indigenous People recognized in international law. It entered the arena of public debate in 1999 through the high-profile national congress that established AMAN, Aliansi Masyarakat Adat Nusantara (see Chapters 12 and 13 in this volume). In a paper presented at a seminar in Central Sulawesi in 2003, the executive secretary of AMAN, Abdon Nababan, gave a concise review of the hopes and fears embedded in the term masyarakat adat from the perspective of the sponsoring NGOs (Nababan 2003). He explored the moment in the late Suharto period when NGO activists had discovered, through field exposure and by reading anthropological studies, that there still exist communities in Indonesia living in harmony with their environment, possessed of indigenous ecological knowledge, holding land under communal tenure, and maintaining autonomous, democratic forms of self-government based in tradition. He called these discoveries 'an oasis in the middle of the desert' (Nababan 2003: 9). Masyarakat adat represented, for these activists, the direct inverse of everything that was problematic about New Order development: individualism, greed, ecological destruction, an emphasis on modernity understood as Westernization, control by international financial institutions, burdensome debt, and the loss of national economic, political, and cultural autonomy glossed as globalization. Masyarakat adat supplied the model for an Indonesian future that was unique and authentic. If masyarakat adat were restored to wholeness and encouraged to be true to themselves, they would reform society from below (Nababan 2003: 7–12).

For the masyarakat adat movement, finding these ideal communities has turned out to be more difficult than anticipated. The possibility now arises that they were not so much an oasis in the desert as a mirage, a projection of the activists' own fervent hopes and desires in an otherwise bleak situation. One response to the difficulty of locating the perfect adat subject has

been to highlight exemplary people and places where nature-loving natives have organized themselves to defend their right to maintain customary rights to territory and self-government. Central Sulawesi has supplied a number of these exemplary cases. The protest of the Lindu people against forced resettlement related to a hydro dam at the Lindu Lake, the success of the Katu people in resisting forced resettlement out of the national park, and subsequent cases of recognition (Doda, Toro) were well covered in the national media and are often referred to by activists looking for examples of indigenous communities and practices, and the successful defence of indigenous rights.[5] But even these cases, if one scratches below the surface, are complex articulations between local histories and NGO imaginaries drawn together under conditions of duress, rather than self-evident or natural formations (Li 2000).

Another approach taken by AMAN is to formulate criteria of authenticity. Thus, according to Nababan's presentation at the AMASUTA seminar in 2003, AMAN maintains that masyarakat adat do not sell land, because land is their essence or soul (*inti*, *roh*). People who do sell land are not masyarakat adat. I doubt that anyone has been expelled from AMAN or its affiliates for land selling, but the purpose of these statements is to induce the desired behaviour. It is an example of the double move in which adat denotes something that naturally exists, an essence, but one that is often in need of restoration and repair. AMAN asserts that adat needs to be adjusted and improved in keeping with the times, its gender and status hierarchies modified by democratic values. Nababan stated at the seminar that adat leaders 'infected' with greed and opportunism, untrue to the essence of adat, should be identified and avoided, presumably so that the pure essence can flourish.

The difficulties of locating and expanding the oasis, or transforming a hopeful mirage into reality in Central Sulawesi are formidable. As the Java-based legal scholar and activist Rikardo Simarmata stated in his presentation at the AMASUTA seminar, NGOs that supported the birth of the adat movement are recognizing the difficulty presented by bold statements such as 'we will not recognize the nation if the nation does not recognize us'. Who is to be recognized? How? What kind of sovereignty is sought by different groups? Will this statement open up an arena of creative, political action, or yield only confusion and cynicism? These are the questions activists pose themselves as they contemplate the dilemmas of the adat movement.

The worries flagged by Nababan and other supporters of the masyarakat adat movement are a return to feudalism, and the risk of provoking ethnic cleansing – possibilities Nababan notes in his paper but does not further address. At the AMASUTA congress Arianto Sangaji of the Central Sulawesi-based NGO Yayasan Tanah Merdeka (YTM) argued for the adoption of a different definition of indigenous people, one that is also derived from the transnational movement but has a different political bite from the one

adopted by AMAN that emphases ancestral ways and attachment to a fixed territory since time immemorial. Drawing from the work of Ben Kingsbury and others (Barnes et al. 1995), Sangaji argued that the critical feature of the subjects of concern to the adat movement is their positioning as people oppressed by majorities and/or state regimes whose resource rights, cultural rights, and rights to livelihood and security are under threat. Cultural uniqueness or dwelling on ancestral land are not necessary or sufficient criteria. For Sangaji the key criterion by which masyarakat adat can be recognized is their oppression. He argued that this definition is well suited to the situation of Central Sulawesi where a high degree of population mobility in pre-colonial times caused by famines, disease, and inter-group warfare, followed by New Order resettlement programmes, have left many people 'out of place' but oppressed none the less, in ways that the adat movement needs to recognize if it is to be a progressive force.[6] A further implication is the need to combine the forces of various oppressed groups, a front on which YTM has been active.

YTM together with WALHI and other NGOs supported the formation of the Forum Rakyat Miskin Sulawesi Tengah (FRMST, Poor Peoples' Forum), an alliance of farmers, fishers' and workers' unions, urban and rural poor, women and students, as well as groups organized under the adat banner and a political party with a history of activism on land and labour issues (Partai Rakyat Demokrasi, PRD). The political significance of this kind of alliance is signalled by the violent opposition to it by the then ruling political party (Indonesian Democratic Party of Struggle, PDI-P, led by Megawati Sukarnoputri). In 2003, PDI-P sent thugs and enforcers to threaten the FRMST headquarters (housed in the office of national environmental umbrella NGO WALHI). Thugs also attacked participants in a rally against Megawati and her deputy Hamzah (FRMST 2003).

Most Central Sulawesi villagers are not aware of definitional debates among activists and scholars taking place in the provincial capital Palu and in other urban centres. Many have never heard the term masyarakat adat, and would not know whether or how it applied to them. Among people who find themselves pitted against the government or corporations for control over land, however, the term masyarakat adat devised by activists has taken hold because it helps them to make sense of their situation and to identify allies in the struggle to assert their rights.

Adat as a banner for mobilizing against land appropriation and forced resettlement

Individuals and communities that have been attracted to the masyarakat adat movement have found there a language, a sense of solidarity, and a set of allies that have helped them to articulate and advance their claims, especially claims against the state for control over ancestral land. Sangaji (this volume, Chapter 14) describes the process through which villagers in

and around the Lore Lindu National Park became mobilized under the adat umbrella when they were faced with the threat of forced resettlement. The process of mobilization continues and is broadening in geographical scope, as evidenced by the scores of communities represented at the 2000 and 2003 congresses of AMASUTA.

A set of interviews I carried out with participants at AMASUTA meetings in 2001 and 2003 revealed a common thread. I asked my interlocutors what trajectory of events and experiences had led them to associate themselves with the adat movement. They recounted one or more incidents in which their resource rights had been threatened or abrogated by the government or government-sponsored corporations, robbing them of land and livelihoods, or they had been threatened with forced resettlement. They described their sense of helplessness, of not knowing whom to turn to for protection or assistance when the authorities were all in league against them, and accusing them of being backward, anti-development, or communist. From the media and other sources they heard about NGOs such as WALHI and YTM that were talking the language of customary rights, and that had successfully defended communities against land appropriations. They made contact with these organizations or their affiliates, and began to attend meetings, seminars, rallies and other events which enabled them to see their own problems as part of a larger struggle. Practical help offered by the NGOs included community mapping to render their resource uses and claims visible and hence defensible, and support to present their claims to officials in their offices or at meetings. One leader commented how he had 'learned to talk bravely' from his NGO allies. Another described the process through which he learned from the NGOs as 'learning how to conduct politics' (*belajar berpolitik*), and his recognition that political involvement is not an evil to be eliminated, as the New Order maintained, but rather an entitlement, something to be encouraged. He and others observed how difficult it is, however, to turn their fellow villagers around, cowed as they still are by New Order thinking and ongoing threats.

A second question I asked my interlocutors was why they framed their struggles against government threats to their land and livelihoods in terms of adat identities, as masyarakat adat, rather than as *rakyat*, the term for 'the people' with broadly populist and often leftist connotations. Their answers to this question were vague. Some said that preservation of adat and culture was important, and should not be forgotten, but this appeared as an afterthought – it had not been mentioned in their initial narrative about their mobilization or their connection to the movement. From the questions raised by participants at seminars and workshops organized by AMASUTA what emerges repeatedly is the 'case' (*kasus*) – the event, incident, injury or appropriation, or, in a few instances, the neglect (lack of roads, schools, facilities) that drives people to protest and to act. These are the problems they want to have fixed. To the question 'who are masyarakat adat?' the most common answer I received was '*rakyat yang tertindas*' (oppressed

people), a definition consistent with Sangaji's promotion of a definition of masyarakat adat that stresses the common condition of people deprived of their rights to land and livelihood under the New Order and since.

A leader of one of the adat organizations serving a particular local constituency and affiliated with AMASUTA, Dewan Adat Masyarakat Dondo (DAMD), was quite explicit on the issue of inclusiveness: 'we include everyone who is oppressed [*tertindas*], not just one ethnic group'. He recounted with pride how, after the DAMD meeting house was burned down by thugs sent by the *bupati* (district head) just before their congress in February 2002, they were able to rebuild and hold a meeting attended by 1200 people (Sangaji, this volume, Chapter 14). What the bupati had created, inadvertently, was another 'case' that served to mobilize people. The bupati argued that an adat congress would create horizontal conflict, meaning conflict between ethnic or religious groups, but DAMD argues otherwise. It is doubtful that the bupati would have been any happier to issue a permit for a meeting organized under the banner of oppressed rakyat occupying a common class position, a horizontal alliance across ethnic and religious divides. Indeed, in the case of DAMD and others, the adat banner highlighting culture and custom did not exempt the adat movement from the stigma of being labelled communist. Under hostile conditions such as these, learning how to conduct politics is a significant challenge. A leader of another local adat organization, Aliansi Masyarakat Adat Togean (AMAT), claimed that about 50 per cent of the people in the villages where AMAT has been active are beginning to understand the adat movement and how it relates to questions not of ritual but of rights, while the others are still nervous. A leader of AMAK (Aliansi Masyarakat Adat Kawalise) reported that the proportions were 20 per cent for, 80 per cent against, with village headmen calling AMAK and its leaders *provakator*, provocateurs.

The platform of AMASUTA reflects the origins of the movement in struggles over land and resource rights, and the concerns of its members. The work plan formulated after the first AMASUTA congress in 2000 used a logical framework analysis, a format familiar to development planners, to outline a fairly radical agenda. AMASUTA's member communities are to be informed of their rights, and given training in how to demand them; they will develop an organization and network to support the struggle; cases of land conflict will be settled, and policy dialogues undertaken; they will reclaim land taken over by government agencies and corporations; they will inventory land that has been sold and prevent more sales; they will occupy the offices of offending government bureaus and corporations; they will improve their capacity to mobilize masses for demonstrations. Indeed, these are practices AMASUTA was already engaged in before the work plan was formally adopted (*Surya*, 22 May 2000; *Mercusuar*, 22 May 2000).

The consolidation of AMASUTA as a formal organization with rules, statutes, and a work plan increases its legitimacy as an entity with legal standing, consulted by government officials, even as it pursues openly political

projects that challenge the authority of the state apparatus to appropriate resources and dictate how and where people should live and work. This is a remarkable achievement. It also carries significant responsibilities. If AMASUTA is to be consulted on the fate of masyarakat adat in the province, the issue of whom and what it represents becomes very important. The same issues have arisen for the national adat organization AMAN, consulted by donors who have clauses in their statutes requiring consultation with indigenous people. It is very convenient to treat AMAN as the pan-national voice of Indonesia's indigenous people, but does AMAN understand, and can it adequately represent, the interests of its far flung and highly diverse constituency?

There are many weaknesses in AMASUTA. It has adopted the practices and language of government and donors who try to 'socialize' their initiatives from the top down. There are misunderstandings. When I visited one village leader after he returned home from the 2003 AMASUTA congress, a co-villager asked him what the meeting was about: 'Was this an adat ceremony?' (*acara adat ini?*). He replied, disjunctively, that it was 'voluntary' (*sukarela*). The congress was not, of course, a venue for performing rituals or for discussing customary laws and practices, the kinds of practices that spring to mind when villagers hear the word adat. The congress was interrupted by a conflict among the organizers which led some participants to conclude that AMASUTA's leaders know nothing about adat (meaning, in this context, proper conduct). Part of the fight was over money, and some of the participants suspected that the money involved was rightfully theirs. They believed they should have received the 'pocket money' customarily given for attendance at government or NGO organized events. The idea that one would spend unpaid, 'voluntary' time listening to speeches and contributing to a discussion for the advance of a common cause – one's own, chosen, political cause – is still unfamiliar in Central Sulawesi. One AMASUTA activist recounted an experience he had when he was sent for an exchange visit to Java, and spent time at the headquarters of a Farmer's Union (Syarikat Petani Pasundan, SPP). 'The office was full of farmers', he said, 'ordinary people. And when they made their demands at the rally, they just wrote them out on paper. They didn't need an NGO with a computer.' He was impressed with the union's mass base, its large membership, its capacity to mobilize tens of thousands of people for rallies, each paying their own way, and the populist spirit of their struggle.[7]

Adat and conservation

Advocates for the right of masyarakat adat to retain access to ancestral lands have argued that adat communities live in harmony with nature. This argument, backed by the preparation of maps and the description of traditional land use and tenure systems, has been effective in restoring use rights to a few communities in Central Sulawesi located in and around the

Lore Lindu National Park (see Chapter 14). It has also been used, however, to limit and control the practices of adat communities according to criteria that conservation experts and park management officials have devised.[8] If adat communities make claims based on cultural difference, so the argument goes, they should demonstrate that they really *are* different.

The conservation law forbids settlement and agriculture inside parks, but has provisions for a traditional use zone which allows 'limited resource extraction of locally occurring species' (TNC 2002b: 100). The use zone has as its imagined subject traditional villagers collecting indigenous forest species of nuts and berries, ferns, fruit and medicinal plants for use in traditional, non-commercial ways – the model Michael Dove (1996) dubs 'rainforest crunch'. This concept fits uneasily with the reality of resource use inside the park, where thousands of hectares have long been under-planted with coffee, and there is currently a very strong desire on the part of park border villagers to remove the forest canopy in order to replace worn-out coffee groves with the new boom crop, cocoa. Besides the core problem that agricultural land use is expressly forbidden by the conservation law, there is the problem that many of the resources present in and around the park and valued by villagers are not actually indigenous, they are exotic – coffee and cocoa, dogs, cats, chilies, carp, rusa deer, tilapia, and water buffalo are among the introduced species that biodiversity-protectors would like to see removed from the park and its environs (TNC 2002b: 20, 65, 178). Further, the rules for the use zone forbid the commercial extraction of resources (TNC 2002b: 69). Traditional systems of resource extraction are assumed to prioritize subsistence use. But since around 1870, commerce has driven the ebbs and flows of resource extraction from the forests of Indonesia, including Central Sulawesi (Boomgaard 1997; Henley 2005; Schrauwers 1997). Resin, for example, was collected and exported from trees now inside the park for at least a century (1870–1970). Rattan, which is collected for household use as a binding for tools, baskets and farm huts, has been extracted for sale on a commercial scale to meet the demands of the furniture industry since the mid-1980s.

The text of the draft Management Plan for the park, prepared with assistance from the transnational NGO The Nature Conservancy (TNC), notes the disjuncture between concepts of traditional use in the conservation law and the existing practices of villagers in and around the park, and makes this an argument for intensified regulation. Thus rattan collection, which is 'claimed as a traditional activity but in the last twenty years has become a major local business', should be subject to 'tight control measures, including codes of practice' – if, indeed, it is to be allowed at all (TNC 2002b: 66). The practices of Katu and Toro, two villages that successfully argued for the recognition of their adat right to use land and resources within the park, are subject to special scrutiny in the park management plan. These villages succeeded in gaining recognition from the park manager on the basis of two arguments: that they have customary rights to land and resources sequestered

by the park, and they have traditional wisdom in resource management and conservation. In response to a threat to resettle their village outside the park, the Katu people with the help of NGO supporters prepared maps and documents presented to the park manager as evidence of adat claims and conservation competence. The park manager accepted the arguments, declaring the Katu villagers 'an integral part of the park management system' and accepting their definition of an adat domain (*wilayah adat*) covering 1178 hectares of park land. He subsequently promoted Katu as an exemplary place, and achieved national fame for his 'eco-populist' model of conservation that recognized indigenous rights and traditional wisdom (*Suara Pembaruan*, 24 August 1999; Sangaji 2002). He argued that other communities that had lost their traditional ways and become obsessed with possession of land, or were pressing in on the park with monocropped cocoa, should learn from Katu's example (Laban 2000).

The legal basis of the recognition of Katu bestowed by the 'eco-populist' park manager is still disputed – the management plan reasserts the claim that national parks are state land, the law forbids settlement, and Katu village should be relocated outside the boundaries. Afraid of a tidal wave of claims on the park but unable, for the moment, to implement park exclusion, park-oriented conservationists are attempting to define stringent criteria for what will count as permissible 'traditional' or indigenous practice. When he recognized the rights and wisdom of the people of Katu, the park manager argued that they did not need to be directed or monitored because they were an adat community that naturally did the right thing. He was very happy when they showed interest in restoring some rice terraces they had built a few decades previously and planting them with biodiverse strains of local rice. He was doubtless disappointed when Katu leaders announced a plan for every Katu household to plant at least 100 cocoa trees by 2002 (TNC 2002b: 167). The exemplary indigenous subjects fell from ecological grace, joining the rush to cocoa, a cultivar he opposed on the grounds of decreased biodiversity and market risk (TNC 2002a: 22).

The authors of the management plan, less trusting than the park manager, proposed stringent standards to which Katu and Toro must adhere, while suggesting that these standards derive, conveniently, from their own customs. The plan states that the 'application of adat or customary practice would, presumably, restrict hunting to indigenous communities who have traditional hunting grounds. Techniques would, presumably, have to be traditional, thus ruling out the use of guns and wire snares' (TNC 2002b: 67). The management plan argues that activities in Katu and other park border villages that claim adat rights need to be vetted for their sustainability. They also need to be vetted according to new criteria of health and well-being. There is, the plan argues, 'no guarantee that traditional hunting practices were ever sustainable, or are now appropriate to meet modern-day nutritional needs'. At odds with the argument that adat communities should conform to adat, the plan also makes the argument that traditional

communities should not be 'fossilized'. They 'must be financially viable and, in the long-term, must integrate with the wider cash economy' through 'the planting of coffee . . . or better still a commercial local natural resource such as rattan' (TNC 2002a: 84). The statement occludes the fact that villages such as Katu have been selling coffee for about a century, and rattan for decades, so the plan offers them nothing new. Moreover the park manager has expressly forbidden them from pursuing their most 'financially viable' option: cocoa.

In sum, although the argument for customary rights hinges upon intact traditional communities and customary legal regimes, communities such as Katu are still assumed to need expert advice, regulation, and improvement. Their rights are recognized only so long as practices conform to prescriptions of eco-friendly conduct deemed to be appropriate to adat communities. As a villager stated during a dialogue session with park officials facilitated by the NGO YTM:

> We move our farms in order to retain soil fertility; we return to the land later; we don't exhaust the soil; we do clear [*membongkar*] the forest but we don't destroy [*merusak*] it. Our question is, will the Park authorities ever agree to that? . . . We doubt it. We want our customary land back and we will use it our way. We can't be accused of invading the park when we are just taking back what belongs to us.
>
> YTM (2003: 10)

From the perspective of park border villagers cutting trees, 'ordinary trees' (*pohon biasa*), is not destruction. It is the normal and necessary practice of people making gardens.

Lack of concern with the conservation of forests led the experts of TNC and a large, interdisciplinary German-led research programme around the park (Stability of Rainforest Margins, STORMA) to conclude that the park border villagers do not have, and probably never had, a customary forest management system. 'Traditional rules on forest resource use are almost absent', writes Burkard of the STORMA team, 'little restrictions on forest use were developed and no well defined traditional mechanisms to regulate resource use among community members have been created' (Burkard 2002a: 6). Villagers in the park border area, he argues, lack a concept of collective benefit or responsibility. He finds that they have no local cohesion and little sense of community or mutual assistance in livelihood matters, where each family takes care of itself and theft of perennials, plants, and harvests is common (Burkard 2002b: 33). They do not fit, that is, with the expert's model of indigenous people living in harmonious communities deeply in tune with nature. When the Harvard scientist and TNC consultant Campbell Webb was interviewed by a STORMA team, he reportedly argued that the park border villagers have little forest knowledge compared to indigenous people whose ways he had studied in the past, namely the Dayak of

Kalimantan. Sulawesi villagers, he concluded, are not 'forest people', rather they are 'basically agriculturalists' who use forests for limited practical purposes, for instance as sources of timber, rattan and firewood (STORMA 1999: 40). I believe that Sulawesi highlanders would concur with this assessment of their pragmatic relationship to the forest. What I find odd is the characterization of the Dayak, since they too cut trees to make gardens, and are 'basically agriculturalists'.

Nature-loving is an urban predilection, and biodiversity protection an imported concern: they are not 'customary' for people who farm in forests and value and protect useful species, but view most trees as 'ordinary'.[9] Resources are rationed or protected only when they are especially valuable or scarce (Ellen 1986). The key scarcity that has now arisen in the Central Sulawesi highlands is not a scarcity of forests, but rather a scarcity of agricultural land caused by the increased population, the closure of the forest frontier by state regulations, and the privatization of significant areas of swidden land which have been planted with cocoa (Li 2002c). It is access to agricultural land, not forest conservation, that is on the minds of villagers on the forest frontier.

Besides the issue of agriculture, illegal logging is identified as a threat to the park, and border villages have been invited by the park management to help protect the park by conducting patrols under the authority of their adat councils, arresting the culprits and imposing adat fines. These are heavy responsibilities which the villagers observe have not so far been compensated in the form they request – the return of access to ancestral land. 'Empowering' villagers to protect their forests from illegal loggers amounts to expecting or requiring villagers to confront powerful outsiders, including government officials, and to confront their co-villagers who are directly involved in logging on the front line. Where the eco-populist park manager envisaged consensual, homogenous adat villages with a unified interest in preventing damage to the forests adjacent to their settlements, the source of their drinking and irrigation water, the reality is that village elites, including members of village adat councils, are often complicit in the logging, acting as brokers for logging syndicates, organizing village labour and providing local 'security' for the logging operation. They are often in competition with one another, factionalizing their own villages, and they compete with outsiders who try to log village lands (inside or outside the park) without making the proper financial arrangements. Thus these elites may have an interest in controlling logging, as in instituting monopolies and watertight collection systems, but not necessarily an interest in preventing it.[10]

The deployment of adat in the context of conservation amply illustrates its polyvalent qualities. Used initially by Katu and others as a language of protest in the attempt to reclaim rights, adat was taken up by park authorities as a language of management, a mechanism through which to regulate the conduct of park border communities. The autonomy and responsibility

claimed as adat rights were reimposed as adat obligations, as villagers were required to control themselves and others, meeting standards and objectives experts prescribed. But the containment of adat claims remains incomplete. Park border villagers encouraged by frequent reference to adat by the park managers continue to argue for their own definitions of adat rights, customary practice, conservation, and appropriate conduct.

Following the Katu example, there are moves afoot in many park border villages to recover ancestral land from inside the park. This is the scenario most feared by the park authorities, TNC, STORMA, and others concerned to protect the park. So long as Katu could be treated as an exceptional case, a unique masyakat adat with a unique system and way of life, the threat to the park was limited. But park border villages do not accept the difference of Katu. They argue they too have *tanah adat* (adat land) inside the park. They too are indigenous to the area. As evidence they point to signs left by their unnamed ancestors from previous generations who lived and worked in the area enclosed by the park, marking the landscape with signs of habitation and labour investment. Such signs are found in former hill-top village sites marked by graves, bamboo, and fruit trees that date from the period before the Dutch forced scattered highlanders to build permanent villages on the valley floor. In some cases the signs of habitation are more ancient still, comprising stone mortars and megaliths. As Henley (2005) has demonstrated, the pre-colonial population in the highlands was vulnerable to famine, disease, and disruptive warfare. Some of that population lived in the upland valleys, the extensive abandoned sawah in areas such as the Napu depression evidence of a much larger population prior to Dutch conquest. Many lived in the hills, for reasons of security and to reap the benefits of swidden production, which is highly productive in relation to labour investment (Dove 1985).

Ecological studies conducted by TNC tend to confirm villagers' conviction that a significant portion of the park has a long history of agrarian land use. Twenty-six per cent of the park's total land area of 229,000 hectares is described by TNC experts as to a greater or lesser extent 'anthropogenic forest', mainly former swidden land (TNC 2002c: 76). Interestingly, TNC notes the difficulty in distinguishing natural from anthropogenic forest:

> The moist lower montane forests on the north slopes of Mt. Nokilalaki have been strongly influenced by human activity but they are almost indistinguishable from the same conditions due east of the Besoa enclave, near the Park boundary, which have experienced little or no human disturbance.
>
> TNC (2002c: 67)

Of more immediate relevance, TNCs vegetation and land use studies of the park show that thousands of hectares of park land extending 9–10 kilometres inside the borders have been under-planted with coffee and,

increasingly, cocoa (TNC 2002b: 20). Dutch promotion of coffee as a means to pay taxes, and the recognition in Dutch and national law that the planting of productive perennials confers individualized rights, have inadvertently consolidated the conviction of park border villagers that they have been illegitimately excluded from adat land.

Everyday meanings of adat for Central Sulawesi highland villagers

The term masyarakat adat, introduced by NGOs as a translation of the term indigenous people and associated with a distinct political agenda focused mainly on access to land, has entered popular discourse for some highlanders, but not others. The adat movement has no monopoly over use of the term adat, or masyarakat adat, terms also subject to other interpretations. For many highlanders, the ready translation of the term masyarakat adat is people who have or follow customary ways (*orang yang punya adat*), people who adhere to practices inherited from the ancestors (*ada budaya sendiri, dari leluhurnya*). When I asked villagers for examples of customary ways they described the holding of rituals to mark important events (birth, death, marriage, village founding, clearing primary forests, new buildings), and referring interpersonal disputes to elders with the charisma and authority to adjudicate and impose customary sanctions, whether or not the elders are formally organized as an adat council.

Many highlanders have considerable pride in cultural uniqueness, in having retained an adat they deem to be authentic (*masih utuh*). They resist attempts to amalgamate distinct bodies of adat for the purpose of administrative convenience. In Napu, for example, there exists a tiny remnant population of Baria people (also known as Topayapi or Tawaelia) in the isolated Sedoa valley, speaking a language unrelated to those of its neighbours, the Pekurehua people of Napu and the Kaili of Palolo. Recent efforts to establish an adat council for Napu have stumbled on what to do about the Baria, who do not want to give up their uniqueness or their autonomy in adat affairs. Even in Sedoa, however, there is a recognition that the purity of adat should have its limits. They were strongly hierarchical in the past, assigning slaves the task of waiting under the platforms of dead aristocrats to collect the rotting body parts, a practice they recognize as inappropriate in independent Indonesia. They also recognize that their contemporary adat is in part a product of government control and regulation. 'Before the Dutch missionaries came in 1912, we had the law of the jungle [*hukum rimba*]', said the current head of the adat council:

> People were wild [*liar*], there were no fines then, there was just killing . . . People lived scattered in the hills, and met in a place called the *penteng* for matters of war . . . Since the Dutch times adat has been controlled by the government, it is recognized and we continue to carry it out [*diakui dan dilaksanakan*] . . . Now since the Perda [regional

> regulation] in 2001, adat is being conserved and restored [*dilestarikan dan diangkat kembali*].
>
> Interview, Sedoa, 2003

A positioning as masyarakat adat in this sense of people who adhere to customary ways is constant and portable – it endures even when people find themselves outside their ancestral domain as a result of migration and resettlement. This concept of masyarakat adat does not share, that is, in the 'sedentarist metaphysic' (Malkki 1992) embedded in the transnational indigenous rights movement that views indigenous identities as whole only when attached to fixed territories 'since time immemorial'. The concept of masyarakat adat as used in the Central Sulawesi highlands is distinct from *masyarakat asli*, a term used to signal hierarchies of belonging on a nested scale. Thus highlanders can be *asli* (native, indigenous) in their village, but *pendatang* (newcomers, migrants) if they move to an adjacent village, then asli there in relation to people from distinct highland ethno-linguistic groups, and all of them asli in relation to Bugis or Torajans from South Sulawesi, or Javanese transmigrants. Another term used to signal the latter distinction is *anak daerah* – people who belong to the province versus others clearly defined as outsiders. Time is also a relevant factor: as noted, many people in the highlands of Central Sulawesi have moved around and in every village there are clusters of households that arrived in different migrant waves. People who were there first have some precedence over those who came later. Being asli or pendatang are thus relative positionings, both spatially and temporally. Again, the relativity of the concept asli accords poorly with the concept of 'indigenous people' as members of an identifiable and fixed group that can be the subject of international legal instruments such as the International Labour Organization Convention on Indigenous People (Convention 169).

Another sense of adat domain current among Central Sulawesi highlanders refers to the sphere of influence of their ethnolinguistic group, an influence that radiates out from the person of a raja (king) or from a historical spot, such as the site of the battle in which the Napu people made their last stand against the Dutch. Clearly marked at the centre, this sense of domain has no clear outer boundaries. As others have noted, pre-colonial sovereignty in Southeast Asia was less concerned with control over territory than with control over people, or minimally their loyalty. Today, understandings of domain are influenced by the practices of colonial indirect rule, as the Dutch took pre-existing spheres of influence and consolidated them spatially, or invented new ones and appointed raja. The spatialization of sovereignty was accomplished through new practices of mapping and boundary marking (compare Winichakul 1994). Dutch institutionalization of adat as customary law through the vehicle of indirect rule embodied in the person of the appointed raja intensified the association between adat and territorial sovereignty, especially at the level of the district.

Everyday manifestations of the sense of tanah adat as an ethnoterritorial domain are found, as usual, in contexts where people are out of place. Building on a long history of forced resettlement initiated by the Dutch, the Department of Social Affairs classified thousands of Da'a highlanders from the hills around Palu, and Kulawi people from the steep hills west of the Kulawi valley, as 'isolated and estranged tribes' (*suku terasing*). Thousands of highland families were subject to more or less forced resettlement in the Palolo valley in the 1970s. In the resettlement sites, the Kaili Ija people who were indigenous to Palolo claimed precedence over the people resettled in Palolo from Kulawi not because they or their ancestors ever lived, farmed, or otherwise imprinted their labour on the resettlement land (one sense of *tanah adat*) but because the sites fall within the customary (adat) domain of the pre-colonial kingdom of Sigi (Aragon 2000). A resettled Da'a told me that he is often challenged: 'people say, why did the Da'a and Kulawi people come here [to Palolo], this is not their *wilayah* [domain], they should go back to the mountains, but I reply why did you bring us here? We are not *suku terasing*, we are *suku asli*.'

Asserting territorial sovereignty through adat

Communities that have an ancestral association with their current territory sometimes deploy the concept of adat when attempting to assert territorial sovereignty *vis-à-vis* migrants they classify as outsiders. As I noted earlier, insider and outsider are relative terms, but divides can become sharply marked where migrant status coincides with a difference in religious affiliation and origins outside the province. The majority of indigenous highlanders are Christian. The migrants who are most often defined as other are Muslim Bugis from the province of South Sulawesi.

Critics of the adat rights movement often highlight the risk that adat discourse will heighten ethnic sentiment and induce ethnic cleansing and ethnic violence. But just as concepts of adat predate the adat movement and exceed its purview, so too do ethnic sentiment and concepts of ethnoterritorial sovereignty. In this section I examine two cases in which concepts of adat have been deployed in struggles between insiders and outsiders, one case (Lake Lindu) influenced by the adat movement, and another, Tentena, in which the route to adat has been quite different.

On the shores of Lake Lindu, the adat council (*lembaga adat*) was revitalized in the mid-1990s in the context of the struggle against the hydroelectric dam described by Sangaji in Chapter 14. Opposition to the dam united many (though not all) of the Lindu residents, including the migrant Bugis and Kulawi who share the lakeside settlements, and who also stood to lose their land and livelihoods if the dam was built. 'People versus state' was a platform NGOs could easily endorse. Subsequent struggles have been politically and ethically more complex. The Lindu adat council turned its attention to the problem that large areas of land by the lake had been sold

to, or appropriated by, Bugis migrants, usually with the approval of the village headmen. Adat elders disputed the legitimacy of these sales, transfers, and appropriations, and started looking for ways to recover the land or at least to limit further Bugis expansion, and to bring the conduct of Bugis settlers under their control: our rule in our house.

Regulations passed by the Lindu adat council make clear reference to the existence of two types of people at the Lake, 'locals' and 'migrants'. The latter are subject to different rules. They can, for example, be expelled from the Lindu lakeside for infractions of the council's rules (Lindu 2001). Rather than rejecting the presence of Bugis settlers outright, and seeking ethnic cleansing of their homeland, Lindu people focus on the *practices* of Bugis settlers that violate the Lindu peoples' sense of adat or proper behaviour – itself a hybrid of customary concerns and concepts derived from state regulations. They accuse the Bugis of failing to respect the authority of the adat council, clearing forest land without permission, and expanding their landholdings beyond 2 hectares per household, the limit the Lindu people deem to be an appropriate allocation for new settlers because it coincides with the standard allotment of land per household in government resettlement schemes.

Lindu leaders have devised new practices to assert their sovereignty. They have identified migrants with more than 2 hectares of land, and are attempting to retrieve it from them for reallocation to land-poor Lindu people. 'We tell them: we don't want your coffee and cocoa, you can keep that, but the land is ours. We never gave it or sold it to you. You took it and now we're taking it back', said one Lindu elder I interviewed in 2003. His plans include the prevention of new migration by setting up a checkpoint on the trail to Lindu at which identity cards will be inspected. Lindu people have conducted a census and plan to repeat it every three months to check that there has been no new migration. 'We have become the managers' (*kami jadi manager*) he said, using the English term manager to signal, perhaps, the hybrid form in which reasserting sovereignty requires the Lindu adat council to assume functions associated with modern government – listing, surveying, classifying, regulating, and thinking ahead to the needs of future generations. Bugis people counter that citizens of Indonesia have the right to migrate at will, and to prosper through their own labour and initiative. They argue that it was their labour and initiative that improved land previously abandoned or misused by the Lindu people. They are the ones who have helped to meet state goals for development. From their perspective, late counter-claims by Lindu people signal only jealousy and opportunism.[11]

In Tentena, a mid-size, predominantly Christian town on the shores of Lake Poso founded by Dutch missionaries, mobilization around the sense of territorial sovereignty mediated through adat has no connection to the adat rights movement. It is a response to the violent conflict in the Poso district that has pitched Christians (mostly indigenous) against Muslims (mostly Bugis) during the past years. The reassertion of adat in this context

is an elite venture. It is led by senior government officials, some of them living in Tentena as refugees from Poso city, a place that has become identified as Muslim territory and effectively cleansed of Christians. They are still government officials, receiving their basic pay, but they cannot safely report to work in Poso. Thus they find themselves oddly inside and outside government, with time to reflect on how to reorganize sovereignty. One factor in their minds is the Malino Declaration devised to end the fighting in December 2001, which contains the statement: 'The land of Poso is an integral part of the Republic of Indonesia. For this reason, each citizen of the State has the right to live, enter, and remain there in a peaceful manner, respecting local customs.'

This statement licenses the territorial expansion into the Poso district of migrants from other provinces on the grounds of their common Indonesian citizenship. It also subjects migrants to *adat istiadat setempat*, the customs of the land. This clause potentially enables the leaders in Tentena to reassert the sovereignty of the indigenous ethnolinguistic groups, whose customary rules should govern the conduct of themselves and others residing in their territory. But to implement this clause they must first clarify what the local adat is, and how it will be enforced. It was in this context that they became curious to know what AMASUTA was about, having read about it in the media and heard about it through NGO networks. They wanted to explore whether the adat movement had any relevance to their particular concerns. They invited Sangaji, myself and others to stop in Tentena en route back to Palu from the AMASUTA congress for a discussion with them.

The proper conduct of adat has been a long-running concern of the Christian elite of Tentena as it was, indeed, a concern of the Dutch missionaries, and of the Dutch officials who attempted to rule indirectly through the raja they appointed in Poso (Schrauwers 2000). In keeping with this elite tradition, one leader present at our meeting thought the best approach to defining the adat of the Poso district would be to hold a large, high-profile adat conference. He was seeking funds for this purpose from the governor. His goal was to produce a unified Pamona adat incorporating the subgroups Lage, Ondae, and Tojo, a vision that coincided with his aspiration for a new district, Pamona Raya.[12] Citing regal genealogies and the dispersal of Pamona adat from its original highland source, he argued that the pure Pamona adat currently resided with the Raja Datu Luwu in Palopo, and needed to be retrieved from him. For three days, when he was a young man, he had borrowed a book in Dutch about Pamona adat that he would dearly like to photocopy, as if the answers to re-establishing Pamona strength and integrity lay in that solid, documentary source.

Other leaders contributing to our discussion in Tentena had more mundane but practical concerns. 'We found twelve bombs in Muslim houses in Tentena', said one, 'we have to exercise more control over who comes to live here and what they are doing'. Another argued that the adat practised in Tentena, and in the Pamona area more generally, deals only with weddings

and other ceremonies, and does not address what have now become key questions: control over who lives where, and control over rights to land. 'If we have land problems', he commented, 'we go to the police and the courts, not to adat'. The leaders were generally optimistic, however, that adat could play a bigger role: 'if the ancestors could organize themselves through adat, why can't we?'

Tentena leaders are becoming interested in reclaiming land around Lake Poso appropriated by government officials, and implementing some kind of environmental regulation to maintain water quality and stem the drop in water level. They recognize that Bugis migrants are buying up more and more land in Poso district, negotiating with impoverished highland villagers and making deals with desa headmen and more senior officials who smooth their way, a dynamic they must somehow reverse. They do not propose to undertake ethno-religious cleansing of the highlands, but they see an urgent need to stem the current wave of Bugis migration so that the indigenous, Christian highlanders can hold on to some land. Muslims have been removed from Tentena town, which serves as the headquarters of the Christian leadership and point of retreat for Christian refugees. Before the conflict, there was a significant number of Muslims living in Tentena. Now there are very few, possibly no, Muslims left, and pigs wander freely about the marketplace where Bugis stalls were once located. 'Our rule in our house' seems feasible in Tentena town, under current conditions, but in the rural hinterlands of Poso district and Central Sulawesi more generally, the influx of Bugis migrants is ongoing.

Adat as a tool of ethno-politics

In Central Sulawesi as elsewhere, the spatial reorganization of power occasioned by the legislation on regional autonomy has provoked a series of moves by bureaucratic and political elites to create new districts and to mobilize political support along ethnic lines. These elites often descend from aristocrats who occupied prominent roles in the Dutch-sponsored adat systems used for indirect rule. For them, adat is the confirmation of their fitness to rule. Their language is often populist, however, with references to empowerment and rights, making it difficult for some to distinguish between their platforms and those of organizations such as AMASUTA. This confusion may be deliberate, designed to disorient the adat movement, or it may be coincidental: ethno-politics might have invoked adat even without the challenge posed by AMASUTA and related organizations.

Aminundin Ponulele, governor of Central Sulawesi from 2001 to 2006, devised an adat organization called the Pitu N'gota Ngata Kaili. It is staffed by prominent Golkar members. It claims jurisdiction over the Kaili domain and also over Napu, Besoa, and Bada. This geographical span is historically problematic: Napu at one time acknowledged the suzerainty of the Kaili kingdom of Sigi, but Besoa and Bada did not. Their inclusion has been

justified by the governor in terms of his own genealogy: he claims to have an ancestor buried in Besoa, making him a Besoa native, and he also claims to have ancestors at Lake Lindu. One interpretation of the Pitu N'gota is that it is the governor's vehicle for re-election. But there are other interpretations.

A schoolteacher from Palu, originally from Napu, explained the Pitu N'gota to me in terms of struggle between the indigenous people of the province (*anak daerah*) and the migrant Bugis, and placed it in the broader context of violence in Poso and Palu over the past five years. 'The Pitu N'gota is to fortify [*memperkokoh*] the Kaili people, so they are strong and adat-based [*beradat*], so others can't just take over their land [*rampas tanah orang*]. We control the districts of Donggala and Poso – this is Kaili territory, not Bugis territory.' The problem of Bugis who like to steal people's land (*menyerobot tanah orang*) has, he said, been openly discussed in Pitu N'gota meetings. It has been linked, through various narratives, to regional autonomy and the need to restore the adat of each region. One link is through elections: the Pitu N'gota, he said, would propose and support candidates who meet with the approval of adat leaders, namely, people of aristocratic descent who also have appropriate education. Another link is through decisions about district and subdistrict boundaries, hot political currency, with the Pitu N'gota advising on historical dimensions. As in Lindu and Tentena, an important function envisaged for a strengthened adat is to control Bugis conduct: 'they [the Bugis] don't know what adat is', he said, 'they just take up their knives, they take peoples' land, they just do what they like – as in the incident at the market [in Palu]: the Da'a were just trying to make a living, but they [Bugis] tried to collect taxes, and then took up their knives'. In this incident, which is recounted in various versions, the entire market was burned down, and five Da'a were killed. Significantly, lowland Kaili who are Muslim joined together with highland Da'a, a Christian Kaili sub-group, forming an ethnic front across the religious divide. 'We are a nation that respects law, the Kaili people respect the law, so we will educate them [the Bugis].' This statement is an interesting reversal of a common Bugis view of Central Sulawesi natives as backward, lazy, feckless and primitive, lacking in refinement, in need of education and direction by their more advanced neighbours from the south.

In terms of district sub-divisions, there are two sides courting Napu: Pitu N'gota is viewed by some as part of a bid for a district incorporating the Palu Valley, Palolo, Napu, Besoa, and Bada (to be named Sigi-Lore district). An alternative plan includes Napu with Poso, in a district that would be Muslim-dominated, as Poso town and the adjacent coastal zone (*Poso Pesisir*) have been largely 'cleansed' of Christians. Napu is Christian, but historically opposed to the Pamona, the principal Christian protagonists in the Poso conflict. Elders in Tentena commented on Napu's failure to assist Christian refugees or send reinforcements when the Java-based Muslim militia Laskar Jihad launched a vicious attack on Christian villages and was

advancing on Tentena in December 2001. They see Napu's star rising, in the form of government contracts and official positions, as the Pamona are shut out. It is relevant that Napu is currently a frontier for Bugis expansion into the interior. One Napu village, Watumaeta, had in 2001 a population that was 58 per cent Bugis, and neighbouring villages Sedoa and Alitupu also have a significant Bugis presence (Li 2002c; Yayasan Kayu Riva 2001).

Operationally, the Pitu N'gota has not done much so far. It was invoked by the provincial governor in the context of the squatter settlement at Dongi-Dongi inside the national park boundaries mentioned earlier. The governor said that the Pitu N'gota should 'go and give some understanding' (*memberi pengertian*) to the people, that is, exert pressure on them to leave the land they have occupied and agree to be resettled outside the park. Pitu N'gota intervention was also requested by some of the protagonists in the conflict, speaking in the name of masyarakat adat Pekurehua (of Napu) (Laban et al. 2002: 48, 65). In response, the Pitu N'gota proposed that the name of the park be changed to Baloni Lore Lindu National Park to confirm its status as adat land, whereupon the adat council would impose a fine comprising buffalo, copper trays, and ceremonial sarongs on the forest destroyers (*perambah hutan*).

Nothing came of these pronouncements. It is not clear that the people of Central Sulawesi recognize the authority of the Pitu N'gota Ngata Kaili as an adat body. One group sceptical of claims made by or about the Pitu N'gota are the Da'a highlanders who have formed their own ethno-political organization, the Rumpun Da'a. Like the Pitu N'gota, in some renditions the Rumpun Da'a is motivated by opposition to the Bugis, and was formed in response to the conflict at the Palu market in 2000. The Rumpun's problem with the Pitu N'gota is that the latter is dominated by Kaili lowlanders who do not recognize the historical precedence of the Da'a as elder siblings, the first to spring from the magical ancestors whose descendents comprise the Kaili groups and all other races, including the Bugis and the Dutch, through Queen Wilhemina. 'We tried talking to the Pitu N'gota', said a prominent member of the Rumpun, 'but the histories just didn't match. They did not want to recognize that their ancestors came from the mountains.'[13]

As a result of forced resettlement by the Department of Social Affairs under the programme for isolated and estranged communities (*masyarakat terasing*), the Da'a are diasporic. They are scattered throughout Donggala district, and they are reputedly the largest group in Palolo, outnumbering the original Kaili Ija. One objective of the Rumpun is to draw their dispersed community together. Following the conflict at the market, the Rumpun reportedly took an oath stating that 'five [deaths] was enough, if more than that, we'll settle this ourselves'. By this, I was told, they meant settle their problems with the Bugis by violence, not by national or customary law.

The squatter settlement at Dongi-Dongi inside the Park boundaries is dominated by Da'a who moved in from their inadequate resettlement sites

in Palolo, or direct from the hills west of Palu where they have waited in vain for facilities such as roads. Members of the Rumpun at Dong-Dongi reportedly made an oath that outsiders – *orang sebelah*, meaning Bugis – 'would not be accepted' because they would try to take over and cause trouble. The Da'a claim that their own strength comes from their unity and their numbers: 'If there is a problem, thousands will come down from the hills'. This indeed happened during the incident at the market in Palu, and has been threatened should the Da'a settlers at Dongi-Dongi be violently expelled from the park by the army and police. It may partly account for why the settlers are still at Dongi-Dongi two years after they occupied park land.

The city of Palu, in the Rumpun's eyes, is Da'a territory. 'It was hill people who cleared the forests in Palu, before there was a Bay, before [the culture hero] Sawerigading pushed back the sea, they planted corn there.' Although the Da'a have their differences with the lowland Kaili who have not helped the Da'a to obtain government jobs, they claim they would support the Kaili in the event of conflict with the Bugis. They are wary of being used politically. A former governor, Paliudju, is Da'a, but they feel he did nothing for them when in office, and they were unimpressed by his subsequent activities in Jakarta where he attempted to deliver a block Da'a vote (reputedly tens of thousands) to his chosen party in the 2004 elections.

The Rumpun Da'a, like other ethno-political movements, is led by aristocrats who have grievances different from those of the rural poor in whose name they often speak. In particular, the Da'a elite has felt excluded from provincial government office, despite adequate educational levels. The desires they express through the Rumpun are for *inclusion* in the state machinery and for the provision of proper services (schools, roads) in their mountain homelands, so that more Da'a can occupy positions of respect in government and society. They look to the past, that is, in order to assert their rights in the present, including the right of access to modernity. They also promote Da'a culture, understood as song, dance, and mytho-history.

The Rumpun Da'a operates in the same territory, and with potentially the same Da'a constituency, as AMAK (Aliansi Masyarakat Adat Kawalise), an adat rights organization affiliated with AMASUTA. Both operate in the name of adat, but their political agendas and their modes of organization are distinct. The Rumpun is explicitly advocating an ethno-politics: ideally, Da'a control over the machinery of government in the Da'a homeland; minimally, fair Da'a representation. It is organized through the government's own territorial system. It is headed by the headman of Desa Dombu, who claims royal descent. It includes scores of desa in the hills and has representatives in subdistricts where Da'a are numerous. AMAK, by contrast, is supported by members who have had 'cases' (*kasus*): bitter encounters with government authorities appropriating their land and resources. Its spatial coverage is patchy, and the enthusiasm of members waxes and wanes with the urgency of their struggles. Its leaders are not among the aristocratic elite.

Adat as a tool of village government and orderly rule

Both the Pitu N'gota and the Rumpun Da'a have been invoked by the governor, bupati, and other senior officials to help resolve conflicts or, more commonly, to help guide and educate recalcitrant subjects assumed to recognize and respect adat authority. As already noted, the Pitu N'gota was asked to 'give understanding' to the settlers who have occupied land inside the national park at Dongi-Dongi, but it had no practical solution to propose other than the resettlement option already offered by government officials – and rejected by the settlers. In the context of the ethno-religious violence in the province, adat and religious authorities have frequently been invoked by government officials and asked to educate and guide the combatants and others who might otherwise be 'provoked'. Officials emphasize the psychological deficiencies of the masses who run amok, and need 'mental guidance' (*pembinaan mental*), especially the youth, who are easily led (*Kompas*, 27 June and 18 September 2001). Adat ceremonies were staged for the brokering of (shallow) peace agreements between warring groups in and around Poso. These interventions were not effective in ending the conflict, and only fed cynicism about adat and its elite constituency. As several critics have observed, it is one thing to bring together an elite group to agree that fighting is bad, quite another to examine the underlying causes of violence and build a consensus for peace that addresses the hopes and fears of the protagonists on the front lines (HRW 2002; Sangaji 2003).

The idea that adat can be deployed in the service of peace and order is often emphasized in discussions of regional autonomy. Adat councils being formed or strengthened at the level of the sub-district, district, and province are expected to operate as tools or even as branches of government. Their mandate, and the basic question of whose adat they will recognize or promote, is unclear. Nevertheless the government intends to 'strengthen the role of adat and adat values, customary practices, and adat institutions in order to facilitate smooth government, sustainable development, and national resilience as well as to stimulate participation for local wellbeing' (Djanggola 2003: 1). This statement was made by the head of one of the new districts in the province, Parimo, who was invited to give a presentation at a seminar organized by AMASUTA in 2003. One can almost see the bureaucratic mind at work in this statement, imagining how easy it would be to rule over people who are already governed by their adat, and whose leaders take responsibility for conducting their conduct in peaceful and improving ways. The bupati's image of adat is every bit as idealized as that espoused by the activists supporting the adat movement. Like the activists, he proposes to recover the essence of adat and make it real. He writes about an adat that already embodies various ideal qualities, while also noting the need to strengthen, improve, and restore adat in order to achieve that ideal state.

> Adat embodies the life of the community that stems from pure and generous sentiments for the well-being of humankind without distinction of race, religion, ethnicity, or nationality . . . Adat guides and directs the community to respect one another, to value differences and is full of love and peace . . . Adat is the vehicle and the means for the moral education of the nation . . .
>
> Djanggola (2003: 4)

Recall that these words were penned by the official for a presentation at the AMASUTA seminar. Yet his understanding of adat as a tool of pacification and national unity, a vehicle of what Laura Nader (1991) dubs 'harmony ideology', is rather different from AMASUTA's understanding of adat as a banner for popular mobilization against state-sponsored injustice. Educating people to hold mass rallies, occupy land, and demand their rights is hardly what advocates of adat-as-orderly-rule have in mind. Nor does the vision of ethnic harmony and tolerance accord with the current reality in Central Sulawesi in which adat discourse is implicated in ethno-religious violence, ethno-politics, and ethno-territorial ambitions to restore one's own rule in one's own house and reverse Bugis dominance. The fact that the AMASUTA seminar was held in the meeting hall of the governor's office might indicate that the governor also associates the term adat with orderly hierarchies and the promotion of good behaviour. Or it might signal his recognition that popular mobilizations around adat are a force he needs to contain and direct if he is to maintain the status quo in the province.

The local regulation (Perda) on 'Empowerment, Preservation and Promotion of Customs and Customary Councils' (*Pemberdayaan, Pelestarian dan Pengembangan Adat Istiadat dan Lembaga Adat*) as passed by the districts of Poso and Donggala is copied directly from the national regulations on village and regional autonomy. That is, it has not been drafted in the region with a view to addressing regional realities and concerns, as the autonomy legislation permits. The focus of the regulation is on adat at the level of the desa or its equivalent, an entity assumed to be a natural adat unit, an 'integral, jural community that has the authority to organize and administer the needs of local groups based on their local origins and customs' (article 1F). Adat is defined as the values, norms and habits (art. 1G) that are recognized as law (*hukum adat*) by the community concerned and its neighbours (art. 1H). Adat councils (*lembaga adat*) are presented as emerging naturally from within the community milieu. They have rights 'over the wealth and resources that exist within that adat domain', as well as the right to resolve problems and conflicts that arise within their domain (art. 1I). Adat and the lembaga adat are subject to *pembinaan*, educative direction towards improving ends, and are to receive empowerment (*pemberdayaan*) so that adat is conserved, strengthened, and equipped to play a positive role, especially in ethical and moral guidance (art. 1J–M).

This regulation on the role of adat in village government captures, I would argue, the contradictory conundrum of adat in contemporary Indonesia. Natural rights and authentic habits and values, as well as autonomous capacities for self-government, are presumed to spring naturally from harmonious village communities, intact and unchanged despite a century of Dutch and New Order intervention. Yet adat also needs to be protected, upgraded, and brought into line with new standards. It is to be made democratic, fair and objective, open to positive influences from elsewhere, and supportive of national unity (art. 3A–B). There is no clarification of the status of villages that are multiethnic, or that were formed through the resettlement schemes that have moved hundreds of thousands of rural people away from their ancestral land. Will their ancestral customs, and new customs developed and adapted to their new situations, also be recognized and conferred with legal status? There is no mention of mechanisms for recourse against discrimination or unfair treatment. Villages are assumed to have a common and consensual adat, one set of values, and one set of interests. Indonesia's villages are presumed to be natural and democratic communities that need only a gentle 'tweak' to make them complete.

Most controversially, the regulation recognizes a right of adat councils to manage adat wealth and resources (including, implicitly, adat land) in order to improve the wellbeing of the people (art. 5/1A). It was this article that I found underlined in a copy of the regulation in the home of the headman of a Napu village where I stayed for a few days in 2003. He pointed out to me the contradiction between the rights recognized in this article and the series of letters he had received from the bupati ordering him to stop his villagers from clearing land inside the borders of the Lore Lindu National Park, land they regard as tanah adat and which they deem essential for their economic improvement. Many more questions are opened up by the regulation than are answered by it, and its possibilities are both conservative and progressive, depending upon which elements in the law are taken up, and by whom, and for what purposes.

Conclusion

Having surveyed an array of interpretations and deployments of adat, I conclude with a brief statement of my own perspective. As I have argued in previous publications I am nervous about the implications of adat as a tool of ethno-territorialization, and the risk of elite manipulations of adat for political purposes. I am also nervous about the reading of adat through a green, conservationist lens, which seems to me out of step with popular demands for access to land for market-oriented production and for access to modern facilities such as roads, schools, and government jobs. Conservation should be a shared burden, not one borne disproportionately by marginalized populations. I do not believe that communities are natural units, and I am convinced that 'harmony ideologies' tend to privilege elites,

especially senior men, who are empowered to speak on behalf of a presumed whole.

For me the most significant problem that the discourse of adat could potentially address is this: tens of millions of rural Indonesians access the land and natural resources upon which they depend through customary rights. I mean by this rights which are undocumented, but locally recognized and respected. These rights may be individual or collective, of ancient or recent provenance. By refusing to recognize them, successive ruling regimes have legitimated the appropriation of resources, the forced removal of populations, and the destruction of livelihoods. This, I believe, is what needs to be changed.

Notes

1 Research for this chapter was supported by a grant from the Canadian Social Science and Humanities Research Council (SSHRC), by the MacArthur Foundation Program on Global Security and Sustainability (Research and Writing Grant), and by Dalhousie University. Some of the field research and analysis was carried out in collaboration with staff of Yayasan Tanah Merdeka, especially Arianto Sangaji. Warm thanks to the many villagers and activists who gave generously of their time in talking to me. My primary sources are interviews and discussions with villagers in the highland valleys of Kulawi, Napu and Palolo in 1996, 2001, 2003; observations and interviews with participants at two formal meetings of AMASUTA in 2001 and 2003; and a meeting in Tentena with a group of elders reconsidering the role of adat post-conflict.

2 I have discussed these dilemmas in other publications that are not focused on Sulawesi. See Li (2001a) for a discussion of the origins of the adat movement and the problem of limiting adat communities to a niche in nature, Li (2002b) for a discussion of ethno-territorialism and violence, and Li (2002a) on assumptions about communities in resource management. Li (2000) uses Sulawesi examples to examine why some highlanders have come to identify themselves as indigenous, while others do not.

3 In 1999, following discussions during the national congress that established AMAN, the National Land Board (BPN) passed a decree (SK5/1999) setting out procedures for recognizing customary territories and registering them as communal, non-transferable rights. This registration cannot proceed until criteria for the identification of adat communities are established at the district level. Note too that it pertains only to land under BPN jurisdiction, and excludes land under the jurisdiction of the forest department and land already allocated to other users – that is, all of the land in Central Sulawesi, according to Sangaji's table (14.1) in this volume.

4 See Tsing (1999) for an example of creative village counter-mapping in Kalimantan, and Peluso (1995) for counter-mapping more generally.

5 These cases are described by Sangaji in this volume (Chapter 14) and elsewhere (Sangaji 1996; 2001; 2002).

6 My summaries of Simarmata's and Sangaji's positions are based on my notes from the seminar.

7 The selection of the Farmers Union (SPP) as the venue for the exchange visit surprised one Java-based adat activist, who argued to me that the appropriate destination for the Sulawesi visitors was other adat organizations. This activist believes that the Sulawesi NGOs supporting the adat movement are creating confusion by blending the cause of farmers and masyarakat adat. 'The adat movement needs to know its genealogy', the activist stated: 'members should know who founded the adat movement, its history, not the history and workings of the farmers' movement, which are quite different'. As I understand it, the adat movement in the province has sought alliance with farmers and other groups sharing a common position of oppression not because they are confused but as a deliberate political strategy. Experience in Central Sulawesi is that a mass, united front such as the FRMST gets results. In an era when the popular vote matters, such a front forces politicians and administrators to listen. Further, members of adat communities are also farmers, while farmers may see themselves as belonging to masyarakat adat – this is the on-the-ground reality of Central Sulawesi. Alliances and a blending of categories make more sense than sharp distinctions. The main purpose of the visit to SPP was to see how a (relatively) autonomous, mass-based social movement can function without NGOs and donor support, thereby addressing the problem of dependence that currently besets adat organizations.

8 The general argument I have made about the limit imposed by adat when this is presented in terms of a niche in nature (Li 2001a) is amply borne out by events in Central Sulawesi.

9 See Tsing (1999) for a fascinating account of the ascription of nature-loving to Kalimantan villagers.

10 See discussions of the complicity of village elites and adat councils in illegal logging in Kalimantan (Anau et al. 2002; Barr et al. 2001; Obidzinski 2002) and Sumatra (McCarthy 2000).

11 See Acciaioli (2001) and Putromo Paada (2001: 105) for Bugis perspectives.

12 On the missionary origins of the ethnic category Pamona and the complexities of ethnic identification in the highlands see Schrauwers (2000).

13 On the mountain origins of Sulawesi populations see Henley (2002; 2005), Li (2001b), and, for a more general argument, Reid (1997).

References

Acciaioli, G. (2001) 'Grounds of conflict, idioms of harmony: custom, religion, and nationalism in violence avoidance at the Lindu Plain, Central Sulawesi', *Indonesia*, 72: 81–112.

AMASUTA (2000) *Notulensi Sarasehan Kongres Masyarakat Adat Sulawesi Tengah*, Palu: Aliansi Masyarakat Adat Sulawesi Tengah.

—— (2003) *Diktat Kongres II AMASUTA*, Palu: Aliansi Masyarakat Adat Sulawesi Tengah.

Anau, N., Iwan, R., Heist, M. van, Limberg, G., Sudana, M., and Wollenberg, E. (2002) *Forest, Science and Sustainability: the Bulungan Model Forest; technical report Phase 1 1997–2001, ITTO Project PD 12/97 Rev.1(F)*. Bogor: Center for International Forestry Research (CIFOR).

Aragon, L. (2000) *Fields of the Lord: animism, Christian minorities, and state development in Indonesia*, Honolulu: University of Hawai'i Press.

Barnes, R.H., Gray, A., and Kingsbury, B. (1995) *Indigenous Peoples of Asia*, Ann Arbor, Michigan: Association for Asian Studies.

Barr, C., Wollenberg, E., Limberg, G., Anau, N., Iwan, R., Sudana, I.M., Moeliono, M., and Djogo, T. (2001) *The Impacts of Decentralization on Forests and Forest-Dependent Communities in Malinau District, East Kalimantan*, Bogor: CIFOR.

Boomgaard, P. (1997) 'Introducing environmental histories of Indonesia', in P. Boomgaard, F. Colombijn, and D. Henley (eds) *Paper Landscapes: explorations in the environmental history of Indonesia*, Leiden: KITLV Press.

Burkard, G. (2002a) *Natural Resource Management in Central Sulawesi: past experience and future prospects*, Palu: Project STORMA (Stability of Tropical Rainforest Margins).

—— (2002b) *Stability or Sustainability? Dimensions of socio-economic security in a rain forest margin*, Palu: Project STORMA (Stability of Tropical Rainforest Margins).

Djanggola, H.L. (2003) 'Kebijakan dan pengembangan masyarakat adat Sulawesi Tengah', paper presented at the AMASUTA seminar on 'Masyarakat Adat, Negara dan Modal', Pogombo Kantor Gubernor Sulawesi Tengah, Palu, 26 May.

Dove, M. (1985) 'The agroecological mythology of the Javanese and the political economy of Indonesia', *Indonesia*, 39: 1–35.

—— (1996) 'So far from power, so near to the forest: a structural analysis of gain and blame in tropical forest development', in C. Padoch and N.L. Peluso (eds) *Borneo in Transition: people, forests, conservation, and development*, Kuala Lumpur: Oxford University Press.

Ellen, R.F. (1986) 'What Black Elk left unsaid: on the illusory images of Green primitivism', *Anthropology Today*, 2(6): 8–12.

FRMST (2003) *Kronologi Bentrokan Massa FRMST vs Satgas PDI-P*, Palu: Forum Rakyat Miskin Sulawesi Tengah, 14 January.

Henley, D. (2002) *Jealously and Justice: the indigenous roots of colonial rule in northern Sulawesi*, Amsterdam: VU University Press.

—— (2005) *Fertility, Food and Fever: population, economy and environment in North and Central Sulawesi, 1600–1930*, Leiden: KITLV Press.

HRW (2002) *Breakdown: four years of communal violence in Central Sulawesi*, New York: Human Rights Watch.

Laban, B.Y. (2000) 'Membangun gerakan komunitas lokal, menuju konservasi radikal', in *Dialog Kebijakan Tentang Taman Nasional Lore Lindu (TNLL) dan Orang (Toi) Behoa, 16 November 2000*, Palu: Yayasan Tanah Merdeka.

Laban, B.Y., Thamrin, T., and Cougar, S.D. (2002) *Sumbangan Terhadap Deforestasi dan Pelecehan Hak Masyarakat Adat To Tawelia Sedoa*, Palu: Forum Kemitraan Taman Nasional Lore Lindu (FKTNLL).

Li, T.M. (1996) 'Images of community: discourse and strategy in property relations', *Development and Change*, 27: 501–27.

—— (2000) 'Articulating indigenous identity in Indonesia: resource politics and the Tribal Slot', *Comparative Studies in Society and History*, 42: 149–79.

—— (2001a) 'Masyarakat adat, difference, and the limits of recognition in Indonesia's forest zone', *Modern Asian Studies*, 35: 645–76.

—— (2001b) 'Relational histories and the production of difference on Sulawesi's upland frontier', *Journal of Asian Studies*, 60: 41–66.

—— (2002a) 'Engaging simplifications: community based resource management, market processes and state agendas in upland Southeast Asia', *World Development*, 30: 265–83.

—— (2002b) 'Ethnic cleansing, recursive knowledge, and the dilemmas of sedentarism', *International Journal of Social Science*, 173: 361–71.

—— (2002c) 'Local histories, global markets: cocoa and class in upland Sulawesi', *Development and Change*, 33: 415–37.

—— (2007) *The Will to Improve: governmentality, development and the practice of politics*, Durham: Duke University Press.

Lindu (2001) *Keputusan Bersama Lembaga Adat dan Pemerintah Desa se Dataran Lindu, No. 32/DL/LA/KPTS/X.PD/2001*.

Lynch, O. and Harwell, E. (2002) *Whose Natural Resources? Whose common good? Towards a new paradigm of environmental justice and the national interest in Indonesia*, Jakarta: Lembaga Studi dan Advokasi Masyarakat (ELSAM).

McCarthy, J. (2000) *'Wild logging': the rise and fall of logging networks and biodiversity conservation projects on Sumatra's rainforest frontier*, Bogor: Center for International Forestry Research (CIFOR).

Malkki, L. (1992) 'National Geographic: the rooting of peoples and the territorialization of national identity among scholars and refugees', *Cultural Anthropology*, 7: 24–44.

Nababan, A. (2003) 'Gerakan masyarakat adat di Indonesia: di antara harapan dan kekhawatiran', paper presented at the AMASUTA seminar on 'Masyarakat Adat, Negara dan Modal', Pogombo Kantor Gubernor Sulawesi Tengah, Palu, 26 May.

Nader, L. (1991) 'Harmony models and the construction of law', in K. Avurch, P.W. Black, and J.A. Scimecca (eds) *Conflict Resolution: cross-cultural perspectives*, New York: Greenwood Press.

Obidzinski, K. (2002) 'Logging in East Kalimantan, Indonesia: the historical expedience of illegality', unpublished thesis, University of Amsterdam.

Peluso, N.L. (1995) 'Whose woods are these? Counter-mapping forest territories in Kalimantan, Indonesia', *Antipode*, 27: 383–406.

Putromo P. (2001) 'Migrasi dan Konflik Daerah Tujuan: kasus Desa Tomado di enclave Taman Nasional Lore Lindu Sulawesi Tengah', unpublished MA thesis, Universitas Hasanuddin (Makassar).

Reid, A. (1997) 'Inside out: the colonial displacement of Sumatra's population', in P. Boomgaard, F. Colombijn, and D. Henley (eds) *Paper Landscapes: explorations in the environmental history of Indonesia*, Leiden: KITLV Press.

Sangaji, A. (1996) *Menyorot PLTA Lore Lindu*, Palu: Yayasan Tanah Merdeka.

—— (2001) *Menuju pengelolaan TNLL berbasis masyarakat*, Palu: Yayasan Tanah Merdeka.

—— (2002) *Politik Konservasi: Orang Katu di Behoa Kakau*, Bogor: KPSHK.

—— (2003) *Jangan melihat konflik Poso dengan kacamata kuda: konteks sosial dari konflik Komunal Poso*, Palu: Yayasan Tanah Merdeka.

Santoso, H. (2004) *Perlawanan di Simpang Jalan*, Yogyakarta: Yayasan Damar.

Schrauwers, A. (1997) 'Houses, hierarchy, headhunting and exchange: rethinking political relations in the Southeast Asian realm of Luwu', *Bijdragen tot de Taal-, Land- en Volkenkunde*, 153: 311–35.

—— (2000) *Colonial 'Reformation' in the Highlands of Central Sulawesi, Indonesia, 1892–1995*, Toronto: University of Toronto Press.

Sirait, M., Fay, C., and Kusworo, A. (2000) 'Bagaimana hak-hak masyarakat adat dalam mengelola sumber daya alam diatur', in *Kajian Kebijakan Hak-Hak Masyarakat Adat di Indonesia: suatu refleksi pengaturan kebijakan dalam era otonomi daerah*, Bogor: ICRAF/LATIN/P3AE-UI.

STORMA (1999) *Processes of Destabilization and Conditions of Stability of Rainforest Margins in Indonesia: report on the field visit in Palu*. Palu: Stability of Tropical Rainforest Margins Project.

TNC (2002a) *NRM II 6th Semeste/Final Report*. Palu: The Nature Conservancy.

—— (2002b) *Draft Management Plan, Lore Lindu National Park*, Vol. 2, Palu: The Nature Conservancy/Taman Nasional Lore Lindu.

—— (2002c) *Draft Management Plan, Lore Lindu National Park*, Vol. 1, Palu: The Nature Conservancy.

Toningki, R. (2003) 'Kebijakan dan pengembangan masyarakat adat di Sulawesi Tengah', paper presented at the AMASUTA seminar on 'Masyarakat Adat, Negara dan Modal', Pogombo Kantor Gubernor Sulawesi Tengah, Palu, 26 May.

Tsing, A.L. (1999) 'Becoming a tribal elder, and other green development fantasies', in T.M. Li (ed.) *Transforming the Indonesian Uplands: marginality, power and production*, London: Routledge.

Winichakul, T. (1994) *Siam Mapped: a history of the geo-body of a nation*, Honolulu: University of Hawai'i Press.

Yayasan Kayu Riva (2001) *Survei Demogafi: pola perubahan populasi dan pengaruhnya terhadap manajmen Taman Nasional Lore Lindu*, Palu: The Nature Conservancy/ Balai Taman Nasional Lore Lindu.

YTM (2003) *Notulensi Dialog Masyarakat Mataue dan Balai Taman Nasional Lore Lindu, Balai Desa Mataue, 14 Agustus 2003*, Palu: Yayasan Tanah Merdeka.

Index

Aceh 3, 14, 32, 38, 80, 150, 152–3, 158–9, 225, 302, 304
adat i, xiii, xv, 1–5, 8–10, 12–24, 27–37, 41–2, 53, 58, 61, 65–6, 68, 70–1, 73, 78–9, 81–2, 92, 94, 97–8, 101, 113–27, 130–6, 138–43, 145–6, 151, 164, 170–6, 178–80, 182, 184–8, 190–2, 197, 199–200, 203–8, 211–13, 215, 217–19, 226, 231, 233–9, 243–4, 247–8, 251, 256, 259, 261–5, 267–9, 277, 281, 286, 291–2, 301–3, 307, 311, 313, 319, 321, 328, 332–3, 337–9, 341, 344–51, 353–60, 362–7; community/communities 1, 2, 4, 14–16, 18, 23–4, 27–8, 35, 40, 41–2, 121, 123–5, 127, 131, 136, 146, 170–1, 175, 180, 184–6, 188–9, 199, 200, 248, 261, 267, 269, 285, 319, 321, 325, 330, 338–41, 348–51, 366–7; councils 10, 14–15, 18, 30, 124–5, 140, 206, 211, 215, 301, 308–9, 331, 341, 354, 356, 363–5, 367; democracy 120; land(s) 6, 11, 12, 14, 20, 23–4, 27, 34–5, 38, 83, 123, 134, 137, 139, 142, 144, 172, 188, 191, 199, 279–80, 282, 286, 338–9, 353–4, 361, 365; law 50–4, 56–66, 74, 81, 94–5, 98, 115, 118–20, 122–3, 131–2, 134–7, 139, 140–3, 145, 189, 198–200, 205–6, 210, 213, 220, 239, 310–11, 325; *see also adatrecht*, *hukum adat*; penal law 55–6, 61, 64; police *see pecalang*; revivalism xiii, 1–2, 4, 8, 11, 13, 15–16, 18–19, 27–9, 32, 34, 37–8, 42, 113, 123–5, 131, 190, 192, 203, 207, 237–8, 247–9, 255–7, 263, 269; revival movement 13, 113
adatrecht 20, 22–3, 25, 32–4, 36, 39, 51–2, 62, 68–71, 74–5, 77, 79, 81–3, 92, 95, 103, 105–6, 205, 310; *see also hukum adat*, adat law
ADB *see* Asian Development Bank
Agrarian Act of 1870 133, 211, 220, 309–11
Agrarian Law of 1960 310–11, 316; *see also* Basic Agrarian Law
Agrarian Resources Act (2004) 140, 142–4, 146
Aliansi Masyarakat Adat: Banggai (AMABA) 303, 333; Dayak (AMAD) 301, 303; Kawalise (AMAK) 347, 362; Nusantara (AMAN) 1–2, 4, 7, 9, 14, 16–17, 35, 122–3, 125, 127, 164, 198, 281, 284–5, 292, 295, 297, 299–300, 302–4, 309, 314–15, 331, 343–5, 348, 366; Sulawesi Tengah (AMASUTA) 297, 300–1, 303, 316, 321, 327, 330, 331–3, 338–40, 344, 346–8, 358–9, 362–4, 366; Togian (AMAT) 331, 347
Alisjahbana, Sutan T. 33, 82, 115, 119
AMABA *see* Aliansi Masyarakat Adat Banggai
AMAD *see* Aliansi Masyarakat Adat Dayak
AMAK *see* Aliansi Masyarakat Adat Kawalise
AMAN *see* Aliansi Masyarakat Adat Nusantara
AMASUTA *see* Aliansi Masyarakat Adat Sulawesi Tengah
AMAT *see* Aliansi Masyarakat Adat Togian

Asian Development Bank (ADB) 266, 329
authoritarianism 1–2, 9, 18, 26, 42, 95, 161–2, 165, 282–3, 288, 309
autonomy 3, 6, 16, 96, 102, 113, 149–51, 154, 160–1, 171, 177, 195, 204, 208, 211, 220, 258, 286, 296, 298, 303, 305, 308, 313, 315, 337, 340, 343, 352, 354; regional 15–16, 155, 174, 176, 191–2, 203, 218, 248, 269–70, 295, 308, 313, 315, 332, 359–60, 363–4; *see also otonomi daerah*

Badan Pertanahan Nasional (BPN) 287, 338–40, 366
Badan Perwakilan Desa (BPD) 140, 216
BAL *see* Basic Agrarian Law (1960)
Bali 14, 17, 28, 30–2, 44, 46, 48, 54, 80, 100–1, 118, 123, 125, 146, 150, 170–4, 176–7, 179–80, 182–6, 188–94, 196–7, 200, 252, 288, 291–2, 302, 304, 323
Basic Agrarian Law (1960) (BAL) 11, 22, 28, 130, 132, 136–9, 141–3, 146–7, 150, 276, 279–80, 287, 291, 308, 311; *see also* Agrarian Law of 1960
Basic Forestry Law of 1967 11, 138, 276, 279–80, 291, 308, 338
Basic Mining Act of 1967 308
beschikkingsrecht 20, 36, 68, 73–82, 84, 101, 144, 210, 309
Boeke, J.H. 87–8, 96–9, 105, 107, 126, 210
Borneo 56, 79, 231, 271; *see also* Kalimantan
BPD *see* Badan Perwakilan Desa
BPN *see* Badan Pertanahan Nasional
Budi Utomo 87, 96
Bugis 11, 32, 124, 300–1, 315–16, 322–4, 326–7, 355–7, 359–62, 364, 367
bumiputera 275–7, 290
bupati 16, 149, 153, 187, 231, 243, 251, 263–4, 266–8, 333, 347, 363, 365

caci 252–5, 265
capitalism 22, 87, 91–2, 97, 114, 122, 228, 264; laissez-faire 114
Catholicism 256–7, 260, 262
citizenship 6, 29, 35, 40, 130, 170, 175, 178, 182, 185–7, 190, 194, 196, 200, 226, 236, 240, 278, 358
civil: code 51–2, 58, 133, 135, 137, 220; courts 118; law 60, 64, 78, 81, 135; servants 50–1, 53–4, 92–3, 135, 205, 208, 219, 231, 331; service 53, 76, 90, 212; society xiv, 1, 31, 41, 178, 182, 195–6, 199, 203, 233, 283, 296–7, 305, 314, 316
civil society organization (CSO) 203, 215
civility i, 2, 31, 38, 189–90, 199–200
colonial: administration/government 27, 50–1, 57, 60–1, 63–4, 70–2, 75, 83, 106, 114, 130, 133, 135, 205, 208, 211–14, 220–1, 236, 251, 277, 279, 290, 317, 323, 325–6, 337; bureaucracy 51, 74, 82; era/period 23, 30, 37, 50, 62, 89, 98, 102, 104, 130, 132, 163, 170, 172, 184–5, 194, 198, 205, 208, 211, 247, 249, 263, 265, 267, 269, 277, 290–1, 303, 309–10, 313; indirect rule 24, 150, 154, 161, 355; power 23, 25, 134, 150; state 19, 24, 32, 70–1, 106, 115, 150, 203, 211, 221
colonialism xiv, 3, 23, 27, 117–18, 164, 212, 249
commonweal 170, 178, 184, 186, 190, 194, 196
Confrontation (*Konfrontasi*) 154
Congress of Indigenous Peoples of the Archipelago (KMAN) 275–6, 281, 283–5, 292, 298–9, 301, 304–5, 307–9, 312–13, 316–17, 321
conservation 8, 13, 34–5, 50, 122, 130, 186, 189, 196, 251, 265–7, 280, 287, 296, 314, 323, 325, 327–9, 348–53, 365
conservative/conservatism 1, 15, 19, 23, 35, 114, 118, 121, 123–4, 151, 163, 186, 189, 212, 228–9, 365
constitution/constitutionalism 25, 50, 63, 75, 83–4, 92, 116–19, 127, 131, 137, 140
Constitution of 1945 87, 89, 117, 137, 146, 228, 240, 242, 277, 279, 285–6, 308, 325
co-operatives 22, 30, 33, 37, 84, 87, 89–100, 102–5, 107, 182, 197, 214; movement 33, 87, 90–2, 94–6, 105, 107
CSO *see* civil society organization
customary law *see* adat

DAMD *see* Dewan Adat Masyarakat Dondo

Dayaks 1, 28–9, 30, 40–1, 56, 124–5, 149, 153, 155–7, 160–1, 225–40, 242–3, 279, 285, 303, 351–2
decentralization 1, 14, 16, 35–6, 113, 122, 126, 131–2, 139–41, 146, 182, 216, 219, 287–90, 332
decolonization 6, 307
democracy/democratization i, xiv, 1–2, 13, 18, 23, 27–8, 38, 42, 76, 91, 114–15, 118, 126, 150, 164–5, 170, 172, 178, 194–5, 203, 216, 233, 236, 240, 284, 289–90, 296, 308–9, 314, 319, 321, 343; parliamentary 117–19, 278
desa 12, 26, 83, 93, 96, 100–2, 104, 126, 140, 170, 173, 179, 184–5, 187, 191–2, 194–5, 215–16, 267, 308, 325, 330, 339–41, 359, 362, 364; *adat* 3, 171, 174, 177–8, 180–1, 184–7, 191–7, 199–200; *dinas* 12, 170, 173–4, 177–8, 191–2, 194, 196; *pakraman* 170–7, 181, 185, 189–91, 193–4, 196, 198
Dewan: Adat Masyarakat Dondo (DAMD) 331–2, 347; Perwakilan Rakyat (DPR) 286; Perwakilan Rakyat Daerah (DPRD) 149, 242, 286, 330
DPR *see* Dewan Perwakilan Rakyat
DPRD *see* Dewan Perwakilan Rakyat Daerah
dual: economy 95, 97–8; legal system 50, 52, 55, 132–3, 311
dualism 59, 64, 130, 132–3, 170, 172, 175–8, 192, 194, 214, 231, 279
Dutch East India Company 91; Indian Administration 53
Dutch East Indies *see* Netherlands East Indies

ethical: policy 24, 58, 211, 251; politics 205, 210–12
ethnic: cleansing 28–9, 125, 164, 243, 344, 356–7; conflicts i, xiii, 11, 17, 25, 40–1, 152, 159; movement 149; violence 4, 16–18, 29–30, 37, 126, 224, 230, 356, 364
ethnocentrism 54, 334

Festival Kraton Nusantara (FKN) 17, 155, 159
feudalism 125, 150, 159, 161, 164, 284, 334
FKKKI *see* Forum Komunikasi Keraton-Keraton di Indonesia
FKN *see* Festival Kraton Nusantara
Forest Law (1999) 138, 141, 146
Forum Komunikasi Keraton-Keraton di Indonesia (FKKKI) 17, 159–60
Free Aceh Movement 153, 158–9

globalization 9, 12–13, 170, 178, 188–9, 271, 343
Golkar *see* Golongan Karya
Golongan Karya (Golkar) 17, 154, 158, 160, 164, 166, 215, 228, 231, 242, 332, 359
gotong-royong 21, 93–4, 99–101, 108, 117, 214
Great Depression 20, 213
Guided Democracy 22, 100, 119

Habibie, B.J. 15, 113, 122, 286
hak ulayat 20–1, 28, 36, 39, 84, 131, 133, 136, 140–2, 144, 173, 187, 279, 309, 311–12
Hamengkubuwono 150; X 151
Hatta, Mohammad 87, 89, 91, 94–5, 97, 105–7, 116–17, 126, 214
hegemony 154, 156–7, 301
Historical School 115–18, 126
Hobbes, Thomas 71–2
HRW *see* Human Rights Watch
hukum adat 1, 25–6, 29, 32, 39, 42, 82, 187, 220, 226, 233–4, 238–9, 241, 244, 276, 279, 299, 311, 364; *see also adatrecht*, adat law
human rights i, 1–2, 13, 25, 27–9, 38, 40, 113–14, 125, 127, 188, 224, 233, 237, 243, 275, 281, 285–6, 290–1, 296, 308–9, 314
Human Rights Act (1999) 131, 140
Human Rights Watch (HRW) 125, 226, 231–3, 235, 243

IDRD *see* Institute of Dayakology Research and Development
ILO *see* International Labour Organization
immigrant(s) 6, 11, 124–5, 175–6, 322
immigration 77
indigenism 3, 5–9, 22, 29, 35, 41, 121, 126, 163–4, 224–5, 241–2
indigenous: land rights 53, 69, 73, 276, 287, 290, 330; people 59, 126, 211, 328, 343–4, 348, 351, 354–5, 360; peoples xiv, 6–8, 10, 14, 28–9, 37,

43, 81, 113–14, 122–3, 224–5, 231–2, 235, 240–1, 248, 275–90, 319–20, 330; peoples'movement xiii, 2, 4, 5, 13, 22–3, 28, 45, 127, 163–4, 224–5, 276, 281, 283; population(s) 11, 12, 57–9, 114–15, 124, 220, 241, 322; property rights 208, 210–11; rights i, 13, 20, 24, 34, 37, 75, 122, 233, 267, 284, 286, 289, 292, 331, 344, 350, 355
Indonesian Communist Party 87, 156
Indonesian Socialist Party 120
Institute of Dayakology Research and Development 8, 124, 226, 229, 231–43
International Labour Organization (ILO) 7, 278–9, 313, 317, 319–20, 355
International Work Group for Indigenous Affairs (IWGIA) 8, 283–4, 291
Islam 3, 9–10, 15, 31–2, 52, 54, 105, 116, 163, 204, 206–7, 213, 242, 258, 322, 324
IWGIA *see* International Work Group for Indigenous Affairs

Japanese occupation 21, 116, 161, 213
JAPHAMA *see* Jaringan Pembelaan Hak-hak Masyarakat Adat
Jaringan Pembelaan Hak-hak Masyarakat Adat (JAPHAMA) 122, 281–2, 291, 299
Java 10, 17, 19, 27, 36–7, 39, 41, 50, 52, 56, 59, 63, 73, 82, 92, 99, 101, 106–7, 113, 117, 123, 138, 145, 156, 161–3, 229, 271, 279, 285, 292, 302, 310, 323, 339, 341, 344, 348, 360, 367; Central 107, 152, 323, 327; East 104, 106; West 63, 80, 152–3, 157–8, 302
Javanese 10, 12, 18, 24, 51–3, 56, 62, 72, 80, 88, 93, 96, 98, 103, 107, 115, 154, 163–4, 215, 266, 322
Javanese: language 53, 80, 163; society 52, 56, 93, 98
Jawa: Barat 302; s*ee also* West Java; Tengah 302; *see also* Central Java; Timur 302; *see also* East Java
jujur 69–70, 71, 84

Kalimantan xiii, 4, 11, 16, 17, 24, 28–9, 35, 37, 40–2, 123, 153, 160–1, 285, 292, 305, 328, 352, 366–7; Barat 302; *see also* West Kalimantan; Central 27–9, 93, 100–1, 285, 300–1, 303, 315, 323, 327; East 17, 152–3, 155, 159, 163, 281–2, 284, 289, 291; *Review* 8, 41, 226–7, 229, 242; Selatan 302; *see also* South Kalimantan; South 11, 289, 300–1, 303, 315; Tengah 302; *see also* Central Kalimantan; Timur 302; *see also* East Kalimantan; West xiv, 1, 8–10, 28–30, 96, 124–5, 140, 147, 149, 152, 155–6, 225–6, 230–3, 236–7, 239–43, 281–2, 285, 288, 291, 306
kampong/*kampung* 204, 216, 289
Kartu Tanda Penduduk (KTP) 174, 176
kasus adat 170, 185, 188, 190, 199
kaum 204, 209–10
kedaulatan 298–9, 303–4, 312–13, 315–16; *masyarakat adat* 305
KMAN *see* Congress of Indigenous Peoples of the Archipelago
KMAN II *see* Second Congress of Archipelagic Indigenous Peoples
Komisi Nasional Hak Asasi Manusia (Komnas HAM) 268, 288
Komnas HAM *see* Komisi Nasional Hak Asasi Manusia
koperasi 87, 99, 105, 108; *see also* co-operatives
Koperasi Unit Desa (KUD) 89–90, 180
krama 172, 175, 181–2, 198–9
kraton 149, 152–6, 159, 164
KTP *see* Kartu Tanda Penduduk
KUD *see* Koperasi Unit Desa

Lampung 28, 69, 71, 79, 84, 124, 291; West 280, 289
land rights xiv, 2, 3, 7, 8, 11, 15, 20, 22, 27–8, 36, 38, 40–1, 53, 68, 82, 205–6, 211, 220, 229, 236, 240–1, 269, 279, 284, 287, 290, 309, 329, 330, 339, 342
Law on Compulsory Acquisition (1961) 139
LBH *see* Lembaga Bantuan Hukum
Leiden Adat Law School 51, 63, 68–9, 71, 75–7, 81–2, 205
Lembaga Bantuan Hukum (LBH) 13, 267
Lembaga Kerapatan Adat Alam Minangkabau (LKAAM) 10, 205, 215
Lembaga Musyawarah Masyarakat Dayak dan Daerah Kalimantan Tengah (LMMDDKT) 29

Lembaga Perkreditan Desa (LPD) 180–1, 197
Lev, Daniel S. 13, 32, 52, 63–4, 118, 126, 236,
liberalism 146, 162, 166, 208; economic 212
LKAAM *see* Lembaga Kerapatan Adat Alam Minangkabau
LMMDDKT *see* Lembaga Musyawarah Masyarakat Dayak dan Daerah Kalimantan Tengah
Locke, John 71–2
Lombok 2, 15–17, 27, 32, 38, 54, 80, 127, 150, 158, 198, 283, 296, 322–3
LPD *see* Lembaga Perkreditan Desa

Madurese 4, 8, 11, 28–9, 41, 124–5, 156, 225–6, 230–5, 237–44, 279, 285
Majelis Permusyawaratan Rakyat (MPR) 275, 286–7, 292
Maluku 282, 302; *see also* Moluccas; N. 152; North 153, 157; Utara 302; *see also* N. Maluku/North Maluku/ North Moluccas
masyarakat: *adat* 2, 8–10, 13, 23, 26, 28, 34–5, 37–8, 41, 122, 126, 218, 267, 269, 275–6, 279–80, 282, 284–5, 290, 292, 295, 298–302, 305, 308, 312–13, 315, 319–22, 325, 327–34, 341, 343–6, 348, 353–5, 361, 367; *asli* 8, 355, 357; *terasing* 15, 23, 279, 290, 361
Megawati Soekarnoputri 286–8, 345
migrant(s)/migration 1, 3, 4, 8–9, 11–12, 28, 29–32, 34–5, 40, 124, 131–2, 134, 139, 144, 154, 156, 173–4, 186, 193, 200, 207, 217, 225–6, 240–1, 263, 285, 301, 306, 316, 322–3, 327, 333, 337, 342, 355–60
Minister for the Colonies 53, 56–8
modernity 13, 28, 38, 116, 150, 163–4, 179, 217, 236–7, 343
modernization 58, 61–2, 64, 122, 150, 162, 175, 232, 236, 247
Moluccas 1, 16, 17, 27, 57, 124, 154, 225, 292, 328; *see also* Maluku; Central 53, 281; North 149, 154–5, 157, 160; Southeast 164, 282
MPR *see* Majelis Permusyawaratan Rakyat

nagari 8, 12, 14, 26–7, 41, 100–1, 140, 157, 192, 204–9, 211–20
national revolution, 1945 17, 150–1, 153
nationalism xiii, 5, 18, 24, 29, 116, 123, 230, 255, 312
nationalist movement 29, 62, 87, 91–2, 96, 115, 157, 212, 225
nation-building 249, 251, 269
nation-state 304–5, 307–8, 313
Nazarius 306
negara hukum 41
Netherlands East Indies 19–21, 26, 50–1, 55–7, 60, 62–5, 68, 73, 75, 80, 84, 87, 89, 92, 98, 114, 118, 133–6, 145, 213, 277, 310
New Order xiii, 5, 9–15, 17–18, 22, 26–7, 31, 34, 37–8, 40, 87, 89, 91, 99, 101, 104, 107, 113, 120–3, 139, 149–50, 154, 158–9, 161, 163–5, 170–1, 173–4, 177, 189–94, 198–9, 203, 208, 215–16, 218–19, 227–31, 233, 236–7, 242, 247–8, 251–2, 254, 261, 263, 269–71, 275, 278–9, 288–90, 299, 304, 309, 322–3, 326, 328–9, 338, 340, 343, 345–7, 365
NGO *see* non-governmental organization
non-governmental organization (NGO) 6, 8–9, 13–14, 16, 27, 29–30, 35, 113, 122–4, 170, 189, 196, 225–6, 228–30, 232–3, 235–6, 238, 248, 267, 269–71, 280–3, 285–6, 288, 291, 307, 313, 317, 319–20, 327–33, 339, 341, 344–6, 348–51, 354, 356, 358, 367

orang asli 206–7, 277–9, 282
Orientalist/Orientalism 20–1, 34, 51, 69, 81, 92, 98, 105, 107, 179
otonomi daerah 16, 214; *see also* autonomy, regional

P4 *see* Pedoman Penghayatan dan Pengamalan Pancasila
Padri Wars 157
Pancasila 10, 94, 105, 117, 120–1, 205, 228, 239, 242, 270
Pancur Kasih (YKSPK) 226–31, 238, 242
panghulu 204–5, 207–9, 211–13, 216–17, 220
Panitia Pemeriksa Adat dan Tatanegara Dahoeloe 116
Papua 2, 9, 14–16, 39, 149, 281, 285, 291–2, 304; Province 286; Barat 302; *see also* West Papua; West 123, 279,

282, 284–5, 304; *see also* Papua Barat
Papuan(s) 16, 37, 285–6; West 282
Papuan People's Assembly (MRP) 286
Parindra *see* Partai Indonesia Raya
Partai Demokrasi Indonesia – Perjuangan (PDI-P) 345
Partai Indonesia Raya (Parindra) 118
Partai Nasional Indonesia 87
Partai Rakyat Demokrasi (PRD) 345
PDI-P *see* Partai Demokrasi Indonesia – Perjuangan
pecalang 17, 31, 183, 198
Pedoman Penghayatan dan Pengamalan Pancasila (P4) 121, 127
pemangku adat 17, 151–2
pembangkit listrik tenaga air (PLTA) 327–8, 330
Pemukiman Kembali Masyarakat Terasing (PKMT) 323–4, 331
Peraturan Daerah (Perda) 171–4, 176–7, 189, 191, 198, 339, 354, 364
Perda *see* Peraturan Daerah
PKMT *see* Pemukiman Kembali Masyarakat Terasing
Plakat Panjang (Long Declaration) of 1833 208
PLTA *see* pembangkit listrik tenaga air
pluralism: legal 19, 39, 130–2, 139–41, 145, 286; political 2, 38
post-New Order Indonesia xiii, 1, 18, 104–5, 157, 163, 170, 176, 178, 190, 198, 257, 334
PRD *see* Partai Rakyat Demokrasi
pribumi 40, 278, 282, 290
pusako 207, 209–11, 220

Raffeissen 92–3
raja 18, 151–3, 156, 164, 339, 355, 358
rakyat 120, 123, 346
Reform Era 170–2, 177–8
reformasi 1, 5, 13–15, 26, 32, 41, 91, 131, 139, 142, 203, 205, 218, 248, 257, 261–2, 264, 269, 285
regionalism 203, 212
republican/republicanism 18, 63, 118, 150, 157–8, 161–2, 164–5
riot(s) 16, 28–9, 225–6, 230–3, 241, 243, 267
rukun 106–8

Sarekat Islam 87
sawah 100, 342
Second Congress of Archipelagic Indigenous Peoples (KMAN II) 276, 283, 295–8, 303, 305–8, 313–15
Second World War 62, 65, 94, 236, 258
seka 182, 191, 195, 197
Sekretariat Kerjasama Pelestarian Hutan (SKEPHI) 122, 267
SKEPHI *see* Sekretariat Kerjasama Pelestarian Hutan
Snouck Hurgronje, Christiaan 51, 120
socialism 5, 25, 94, 212, 312
Succession Act of 1865 55
Suharto i, 1, 5, 8, 12–14, 16, 22–3, 26, 34, 87, 89, 91–2, 106–7, 113, 120–3, 130–2, 134, 137, 139, 142, 145, 151, 154, 159, 162, 171, 173, 183, 188, 191, 194, 215, 218, 231, 269, 278, 282, 319, 325–6, 330, 343
Sukarno 10–11, 21, 26, 87, 92–3, 100, 116–17, 119–20, 122, 136, 151, 154, 165, 214, 270
suku 204, 216, 242; *terasing* 22–3, 122, 299, 319, 356
Sulawesi 1, 13, 17, 30, 292, 323, 342, 352, 366–7; Central xiv, 13, 30, 35, 37, 124–5, 285, 291, 297, 300–1, 303, 312, 316, 319–27, 329–34, 337–8, 341, 343–5, 348–9, 352, 354–5, 359–61, 364, 366–7; North 100, 325; northern 53; South 2, 8–9, 18, 30, 79, 80, 152, 153, 275, 281, 288–9, 300–1, 302, 315, 320, 323, 355–6; Selatan 302; s*ee also* South Sulawesi; Tengah 302; *see also* Central Sulawesi; Utara 302; *see also* North Sulawesi
sultanate 1–2, 9, 17, 40, 150–1, 153, 155–9, 162, 165
sultans 17–18, 37, 40, 76, 149–51, 153–5, 157–66
Sumatera: Barat 302; *see also* West Sumatra; Selatan 302; *see also* South Sumatra; Utara 302; *see also* North Sumatra
Sumatra 1, 17, 41, 53, 68–9, 77, 118, 123–4, 152, 163, 285, 292, 324, 367; eastern 80, 163; North 9, 15, 18, 79, 100, 163, 291; Northern 277, 281; South 15, 77, 79; West 2, 8, 10, 12, 14, 15, 26–7, 79, 100, 123–5, 152, 157, 158, 173, 192, 203–4, 206–7, 209, 212–17, 219–20, 282, 288
Sumatran: South 118, 152; West 38, 115, 117, 140, 152

Supomo 20, 25–6, 63, 66, 114, 116–17, 120–1, 146

Taman Mini Indonesia Indah 10
tanah adat 308, 312, 316, 353, 356
The Nature Conservancy (TNC) 331, 349, 351, 353
TNC *see* The Nature Conservancy
tourism 12, 13, 149, 159, 171, 173, 178, 180, 191, 195–6, 199, 249, 252, 255, 280; eco- 196, 265–6; forest 280; mega- 1, 12, 171
tradition/traditionalism 1–7, 9, 14–15, 19, 22, 25, 28, 33–4, 37–9, 52, 54, 56, 63, 78, 92, 95, 97, 102, 104–7, 116–17, 122, 150, 179, 182, 191, 193, 204, 210, 212, 214, 219, 226, 228, 232, 235–6, 239–40, 257, 261–2, 264, 269, 287–8, 304, 317, 324, 343, 358
transmigrant(s) 312, 355
transmigrasi (transmigration) 10–11, 122, 228, 312, 323

undang-undang 311

Village Government Law (1979) 177, 192
Volksgeist 25, 115–16
Vollenhoven, Cornelis van xiv–xv, 20–1, 25–6, 32–4, 36, 39, 50–2, 54, 57–60, 62–5, 68–71, 73–7, 79–84, 95, 101, 105–6, 114–15, 119–20, 126, 135–6, 141, 184, 205, 210–11, 277

Wahana Lingkungan Hidup Indonesia (WALHI) 7, 9, 13, 158, 164, 267–8, 281–2, 291, 320, 345, 346
Wahid, Abdurrahman 15, 17, 162, 278
WALHI *see* Wahana Lingkungan Hidup Indonesia
World Bank 320

Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI) 282
Yayasan Tanah Merdeka (YTM) 328–9, 344–6, 351
YLBHI *see* Yayasan Lembaga Bantuan Hukum Indonesia
YTM *see* Yayasan Tanah Merdeka



PANCASILA



1. KETUHANAN YANG MAHA ESA
2. KEMANUSIAAN YANG ADIL DAN BERADAB
3. PERSATUAN INDONESIA
4. KERAKYATAN YANG DIPIMPIN OLEH HIKMAT KEBIJAK - SANAAN DALAM PERMUSYAWARATAN / PERWAKILAN
5. KEADILAN SOSIAL BAGI SELURUH RAKYAT INDONESIA



NUS

National University
of Singapore


ROUTLEDGE